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Technical assistance and capacity-building

Panel discussion on the issue of national policies and human rights

Report of the Office of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 27/26, in which the Council decided to convene, at its twenty-eighth session, a panel discussion on the issue of national policies and human rights, with a particular focus on the findings of the report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on technical assistance and capacity-building options for integrating human rights into national policies, which was prepared pursuant to Council resolution 23/19, to identify challenges, further developments and good practices in mainstreaming human rights in national policies and programmes.

The Council also requested OHCHR to prepare a summary report on the discussions of the panel, and to present it to the Council before its thirtieth session. The present report was prepared pursuant to that request.

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I. Introduction

1. In its resolution 27/26, the Human Rights Council took note with appreciation of the report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on technical assistance and capacity-building options for integrating human rights into national policies (A/HRC/27/41), prepared pursuant to Council resolution 23/19. In its resolution 27/26, the Council further decided to convene, at its twenty-eighth session, a panel discussion on the issue of national policies and human rights, with a particular focus on the findings of the report, identifying challenges, further developments and good practices in mainstreaming human rights in national policies and programmes. The Council also requested OHCHR to prepare a summary report on the discussions of the panel, and to present it to the Council before its thirtieth session. The present report was prepared pursuant to that request.

2. Pursuant to Council resolution 27/26, a panel discussion was held on 19 March 2015 aimed at exploring further the opportunities for States to integrate their obligations and commitments under international human rights law into national legislation, and to prepare and implement national policies geared towards the full realization of human rights and fundamental freedoms.

3. The panel discussion was chaired by the Vice-President of the Human Rights Council, the Permanent Representative of Paraguay to the United Nations Office and other international organizations in Geneva, Juan Esteban Aguirre Martínez. It was moderated by the Permanent Representative of Lithuania to the United Nations Office and other international organizations in Geneva, Rytis Paulauskas. The Chief of the Americas, Europe and Central Asia Branch, Field Operations and Technical Cooperation Division of OHCHR made an opening statement. The panel comprised the Minister and Executive Secretary of the Ministry of Social Action of Paraguay, Héctor Cárdenas; the National Secretary for Planning and Development of Ecuador, Pabel Muñoz; Professor of Law and former Special Rapporteur of the Human Rights Council Vitit Muntarbhorn; Professor of Law and Director of the Faculty of Law ot the University of Trento, Italy, Giuseppe Nesi; and Responsible Adviser for studies and analysis at the Ministry of National Solidarity, Family and Women's Affairs of Algeria, Dalila Aliane.

4. In his introductory remarks, the Vice-President of the Human Rights Council introduced the panellists and pointed out that the purpose of the discussion was to explore different worldwide experiences of mainstreaming human rights in national policies in order to bridge the gap between legal human rights obligations and their implementation by the State.

Opening statement

5. In his opening statement, the Chief of the Americas, Europe and Central Asia Branch of OHCHR noted that the welcome increase in ratifications of international human rights instruments and the expansion of States' engagement with the international and regional human rights mechanisms had generated a growing need for the implementation of recommendations of the international human rights bodies. In recent years, OHCHR had also seen a marked increase in requests from States for technical assistance. In response to the demand, OHCHR field presences, together with staff at headquarters, had provided support for the development of new and more effective national and sectorial policies, indicators and mechanisms for implementation. In developing their national plans and programmes, many States had adopted human rights-based and results-based approaches. This was essential in order to ensure that all national stakeholders, human rights institutions, civil society actors and other relevant partners had the opportunity to influence and contribute to such processes.

6. Noting that the report prepared by OHCHR pursuant to Council resolution 23/19 was not intended as a blueprint for policy, the Chief of the Americas, Europe and Central Asia Branch gave examples of projects and programmes carried out with national partners across the world, from constitutional reform and transitional justice to the development of human rights indicator frameworks and curricula for human rights education. He emphasized that integrating human rights did not mean merely acknowledging the contents of human rights standards and recommendations when policies were being prepared. The aim was to go far deeper and translate human rights obligations into real and effective change.

7. He stressed that broad-based participation and cohesion were vital components at every stage of policy development. In this regard, the human rights implications of national policies had to be addressed by government ministries, civil servants and parliamentary committees. These processes, however, also needed to include judicial bodies, transitional justice mechanisms, security institutions, statistical systems, national human rights institutions, institutions involving the fight against discrimination, the private sector and—perhaps most crucially—civil society. The examples given in the report were concrete ones and were intended to be an inspiration for States that were looking for good practices to emulate in their own planning and programming. Mr. Magazzeni acknowledged with appreciation the important role of the Board of Trustees of the Voluntary Fund for Technical Cooperation in the Field of Human Rights in providing invaluable advice and support to OHCHR as it continued to develop its technical cooperation programme.

II. Contributions by panellists

8. In his opening remarks as moderator of the discussion, Mr. Paulauskas introduced the panellists and highlighted their considerable experience and expertise in the field of human rights' implementation and policy development. He said that the panel discussion was very timely, as 2015 marked the global celebration of the seventieth anniversary of the United Nations. He added that since the signing of the Charter of the United Nations in 1945, human rights had constituted one of the three pillars of the Organization, along with peace and development. He said that the Charter was based on the notion that there could be no peace without development, no development without peace, and neither without respect for human rights. He further recalled that during the seventieth session of the General Assembly the international community would debate, articulate and adopt a set of sustainable development goals, to follow on from the progress made towards achieving the Millennium Development Goals. The post-2015 agenda offered a unique opportunity for the international community to renew its commitment to achieving development through the realization of human rights. In this context, and as an opening to the discussion, he asked the panellists to reflect on the following topics: first, how human rights obligations can be translated into real and effective change; second, what the most effective mechanisms are for achieving that goal; and third, how regional and subregional cooperation could be strengthened through a comparative process.

9. He said that Paraguay was engaged in pioneering work in systematizing the implementation of recommendations from the international human rights mechanisms as a basis for national policymaking. In particular, the system for monitoring recommendations, a database called "SIMORE", was an important public tool that facilitated access to information on the status of implementation of recommendations. Acknowledging the innovative aspects of that system, he invited Mr. Cárdenas to explain the main steps in the development of that tool and to highlight how it had helped strengthen the Government's capacity to make human rights an integral part of national planning and programming.

10. Mr. Cárdenas noted that in recent years social policy in Paraguay had changed significantly, moving closer towards a rights-based approach, with the broad participation of people living in poverty and in a state of vulnerability. Institutional strengthening had been identified as key in order to achieve those objectives. That had led to considerable structural change in public institutions, with an increased focus on training civil servants and promoting the participation and empowerment of rights holders. In this framework, the Ministry of Social Action had requested technical assistance from OHCHR to strengthen the technical capacities of civil servants to ensure that a rights-based approach was integrated into public policies. The assistance also included advice on follow-up to international human rights recommendations linked to the issue of poverty, as well as assistance in the development of indicators for economic, social and cultural rights. In this context, 205 government officials had been trained and of these, 29 had become trainers themselves. A capacity-building manual was also being drafted with a view to preparing a training programme for all civil servants and State institutions. The training materials would also be made accessible to vulnerable families participating in the Ministry's programmes. A specific regional plan for the Department of Kiwasul was being developed as a matter of priority in the Government's poverty reduction strategy.

11. Mr. Cárdenas expressed appreciation for the assistance received from the United Nations human rights adviser in developing this programme. The Ministry was also putting in place participatory and human rights-based initiatives for indigenous peoples, aimed at promoting access to social services and increasing food security in these communities. A cash-transfer programme was in place to assist people living in extreme poverty and persons with disabilities. Also, a participatory gender programme was geared towards guiding government action to promote equal opportunities for women and men.

12. He said that the online database SIMORE enabled the public to track follow-up by State institutions to the recommendations from the treaty bodies, special procedures and the universal periodic review. The Ministry had also initiated a project to formulate and operationalize indicators for economic, social and cultural rights, disaggregated by gender, geographic location and other key characteristics, to facilitate more targeted policies and interventions.

13. Turning to Mr. Muñoz, Mr. Paulauskas took note of the atlas of socioeconomic inequalities developed by the Government of Ecuador as a major innovation in the realm of social development and inclusion. He asked Mr. Muñoz to explain how that approach had helped the Government reach the most vulnerable and disadvantaged, and to share his views on how scarce resources could be best dedicated to have an effective impact on the realization of economic and social rights.

14. Mr. Muñoz said that human rights had to underpin all discussions about development, adding that a requirement to take human rights fully into account in public policy was enshrined in the Ecuadorian Constitution. He pointed out that in the experience of Ecuador, the concept of "living well" was far more important than the mere promotion of economic growth. This notion also had to be given a key role in the development of the post-2015 agenda—a process in which Ecuador was taking an active role. He said that the Constitution of Ecuador provided for a State based on justice and rights. The Government believed that there was no hierarchy of rights and pursued a policy that placed human beings at the centre of progress. All public planning followed a human rights-based approach, including the right to water, food, a healthy environment, communication, science, education, accommodation, health, work and social security. He said that the realization of human rights was also a cross-cutting theme in all government policies, which were designed and implemented in an inclusive and participatory manner, especially with regard to persons with disabilities, minorities and women.

15. In 2009, the Government put in place three plans for poverty reduction, which were implemented through a human rights-based process. Since then, poverty had been reduced by 15 per cent and inequalities had been narrowed through targeted government policies. At the same time, the health system had been strengthened, and public trust in public services had increased over time. Ecuador, together with the Plurinational State of Bolivia, had the lowest unemployment rate in the region—at around 3.8 per cent. The justice system was being strengthened, and Ecuador now had the lowest murder rate in the region, and overcrowding in prisons was being successfully addressed.

16. Mr. Muñoz said that the key to success had been a determined effort by Ecuador to narrow social and economic inequalities through a human rights-based approach to poverty reduction. Precise targeting of policies had enabled the Government to devise effective strategies to improve education, social security and access to work for vulnerable populations. Public policies had also been designed to pinpoint specific challenges at the regional level, so as to address geographic disparities. The aim was to guarantee social protection through all life stages. The Government had committed itself to eradicating poverty in Ecuador by its term limit in 2017. Ecuador was also heading two regional networks in Latin America, under the auspices of the Economic Commission for Latin America and the Caribbean, focusing on combating cross-border development challenges.

17. Turning to the third panellist, Ms. Aliane, the moderator noted that broad-based participation was widely recognized as a key element of sustainable development. In that regard, he invited her to share some of the lessons Algeria had learned about promoting the participation and inclusion of women in public life as an integral part of national development.

18. Ms. Aliane said that Algeria had its own values and civilization, which were duly reflected in the country's Constitution and legislation. The country was working to expand the space for human rights implementation and was determined to assume its responsibilities and international obligations. Algeria was convinced of the value of investing in social capital as a means to combat poverty. Government programmes included initiatives to promote the rights of women, especially regarding education from primary school to university. Currently, 63 per cent of all holders of university diplomas were women.

19. Women's rights were also mainstreamed into ongoing efforts for national reconciliation, as well as in various microcredit schemes to support development projects in agriculture and small business. A national solidarity fund provided support to disadvantaged people to overcome exclusion and break out of poverty. Algeria had more than 100,000 associations active in the social and cultural fields, which also played an active role in supporting women. Around 1 per cent of all public funds were devoted to persons with disabilities. The panellist noted that youth represented around 70 per cent of the population. The Ministry of Youth was responsible for programmes and initiatives to combat child labour and for devising special measures for youth and orphans.

20. Women in Algeria had the opportunity to participate in development initiatives and efforts were made to ensure a participatory society. This was enshrined in domestic law in line with commitments under international conventions. Women held 30 per cent of all public positions—the highest proportion in the Arab world and the twenty-seventh highest in the world. Women further presided over courts and held many decision-making positions. The current Government had seven women ministers, and the Army had several women among its generals. Women were also active in economic life and frequently candidates in elections, including for the presidency. Algeria further had a National Council for Women and the Family, and a National Research Centre to generate data to guide public policy. A proposal was being put forward to create a fund to support divorced women.

21. The moderators asked the fourth panellist, Mr. Muntarbhorn, to share his experience as a former Member of the Board of Trustees of the Voluntary Fund for Technical Cooperation in the Field of Human Rights, especially regarding the main challenges in ensuring impact of projects on the ground.

22. Mr. Muntarbhorn identified five initial considerations that should be kept in mind when examining the effectiveness of technical cooperation initiatives in the field of human rights. Firstly, in less open settings, the promotion and protection of political rights was often quite difficult. However, there was still a lot of space to enhance protection, particularly with regard to economic, social and cultural rights, with an emphasis on poverty and specific groups such as women and children, as well as aspects of environmental protection. Secondly, in all settings, there was the challenge of discrimination, and this was being tested by the need to protect not only the nationals of the country, but also non-nationals, such as refugees and migrant workers. That was one reason why human rights programmes should be anchored in the principle of non-discrimination both in spirit and in practice. Thirdly, United Nations-backed funds and programmes should reach out not only to government officials and ministries, but also to non-governmental actors and civil society at large, with due regard to gender sensitivity and child responsiveness, as an invitation to find creative ways to support these groups. Fourthly, the establishment of United Nations human rights presences in countries that have difficulties meeting their obligations was a welcome development. This was being done directly through OHCHR offices or, more indirectly, through United Nations country teams or human rights advisers. The successful mainstreaming of human rights, in turn, depended on the following: the presence of good laws, policies and plans; enforcement; strong and capable institutions and personnel, including national human rights institutions; resources and national budgets; good information and monitoring; good education and capacity development; and good participation and networking between various stakeholders. The sustainable development goals presented a golden opportunity to make real progress in all these areas.

23. Mr. Muntarbhorn noted that in Thailand, policies and plans, especially national human rights action plans, had proven to be very useful entry points. Since 2001, the country had already developed three such plans. The strength of the first plan was that it had been designed based on broad participation and consultation, matching national standards with international law. It also aimed at providing various groups with enhanced protection. However, the main weakness of the plan was poor coordination.

24. The second plan provided for participation by a broader segment of the population. The third, and current, plan was much better prepared, through a strong participatory and consultative process, coupled with a good database and analyses by universities. Importantly, the Ministry of Justice was now the main coordinator of implementation and received regular reports from other line ministries every year as an important means of monitoring and accountability.

25. Mr. Muntarbhorn finally proposed to test the implementation of these measures against a set of five questions: (a) who, for whom and with whom; (b) what rights; (c) how to implement; (d) where and when; and (e) by what means. With regard to the first question, the plan targeted State authorities, in particular key actors with considerable human rights impact, such as the Ministry of Defence. The activities under the plan would target women and children, as well as asylum seekers, persons with disabilities, drug addicts undergoing rehabilitation and, as an innovation, issues related to sexual orientation, such as civil unions. The plan would further be broadened to cover persons deprived of their liberty.

26. It opened up opportunities for stakeholder participation, particularly cooperation with civil society and the business sector, along with international cooperation. As to which

rights the plan would cover, the aim should be to match priorities with recommendations arising from the universal periodic review, as well as from the treaty bodies and special procedures. An innovation of Thai plan was to abolish the death penalty. An important challenge would be how to match the need to protect civil and political rights with national security laws, including martial law, emergency decrees and criminal law provisions that affected the enjoyment of freedom of expression and assembly.

27. Regarding implementation, Mr. Muntarbhorn emphasized the importance of enforcement of the law by the court system, securing sufficient resources, as well as cooperation with civil society. As to where and when to act, the plan was to be implemented during a five-year period, including in regions of unrest, such as in the south of the country. Finally, he said that while it was important to recognize that resources were naturally linked to budgets, the effectiveness of the programme depended on good coordination, systematic monitoring and capacity development within the Ministry of Justice, based on the results of evaluations.

28. The moderator asked Mr. Nesi to explain how the Italian Interministerial Committee for Human Rights was able to meaningfully affect the national situation. He also asked him to reflect on how the Committee related to the various European Union entities in charge of policy-setting, such as in relation to asylum seeking, trafficking and border control. He further asked him to share his experiences of how all stakeholders could be successfully involved within large and complex European Union policy-setting mechanisms in order to strengthen regional and subregional cooperation. As a slightly provocative twist, the moderator asked whether one could say that there was an optimal balance to be struck between participation and effectiveness in national policy-making.

29. At the outset, Mr. Nesi said that, although Italy remained engaged in and committed to international norm-setting, issues concerning the integration of human rights in national policies had been at the centre of much debate in recent years. Among the various national bodies that had had a meaningful impact on human rights in national policies he highlighted the Italian Interministerial Committee for Human Rights, established in 1978 at the Ministry of Foreign Affairs and International Cooperation, as an institution meriting particular attention.

30. He said that in the previous 18 months, the Inter-ministerial Committee had strengthened its role in the implementation of human rights in Italy and the integration of human rights in national policies. In particular, it had become an essential focal point for any branch of the State administration for incorporating human rights in the national legal system. It could be seen as a form of clearinghouse for State policy and action in several fields linked to human rights.

31. Ten ministries were represented at the meetings of the Committee and participated in its work, together with other relevant public institutions, including local authorities. Recently, the Interministerial Committee had assumed a crucial role in coordinating Italy's response to complex international crises, such as forced migration and human trafficking, while respecting fundamental human rights.

32. With input from other line ministries, he said that the Interministerial Committee prepared the periodic and ad hoc reports that Italy presented to the human rights monitoring bodies of international organizations (United Nations and Council of Europe), and monitored follow-up to those reports. It was also responsible for the systematic examination of the legislative, administrative and regulatory measures adopted by national authorities as follow-up to international commitments under international human rights instruments to which Italy is a party. The Interministerial Committee was also in charge of outreach towards civil society and the promotion of debates on human rights. Through its database it

was able to follow the status of implementation of Italy's international human rights obligations.

33. It had also set up several working groups on specific issues, including on the universal periodic review, civil and political rights, racial discrimination and torture, women and gender issues, rights of the child, economic social and cultural rights, disabilities, and the development of a core document for the international treaty bodies, which was completed in 2014.

34. In July 2014, it had submitted the second national report to the Human Rights Council for the universal periodic review. It had prepared the report through a complex procedure of consultation and coordination. This process had involved discussing a number of sensitive issues, such as: (a) immigration, asylum and the rights of migrants; (b) the fight against racism; (c) the treatment of Roma and Sinti communities; (d) the administration of justice and the treatment of detainees; (e) counter-terrorism legislation and the expulsion of aliens; (f) national institutions for the protection and the promotion of human rights; and (g) protection of the most vulnerable.

35. He said that the Interministerial Committee very actively promoted outreach to civil society and awareness-raising in the field of human rights. It was engaged in consultations with non-governmental organizations on the implementation of the country's international commitments at the United Nations and the Council of Europe. It also actively cooperated with universities, promoting academic initiatives in the field of human rights, including the right to peace, environmental sustainability, education and the protection of cultural heritage. Italy had for many years pursued the establishment of a national human rights institution, which, when established, would be a welcome complement to the Inter-ministerial Committee.

III. Plenary discussion

36. During the panel discussion, representatives of the following States and organizations took the floor: Algeria, Bahrain, Burkina Faso, China, Colombia, Congo, Ecuador (on behalf of the Economic Commission for Latin America and the Caribbean), Estonia, France, Greece, India, Indonesia, Iran (Islamic Republic of), Mexico, Morocco, Namibia, Pakistan (on behalf of the Organization of the Islamic Conference), Paraguay, Peru, Portugal, Republic of Moldova, Russian Federation, Thailand and Venezuela (Bolivarian Republic of), as well as the European Union. Representatives of the following national human rights institutions and non-governmental organizations also took the floor: Americans for Democracy and Human Rights in Bahrain, Conseil national des droits de l'homme du Maroc, International Service for Human Rights, Korea Center for United Nations Human Rights Policy, Scottish Human Rights Commission (video statement) and Verein Südwind Entwicklungspolitik.

37. In their comments, many representatives praised the technical assistance provided by OHCHR and acknowledged the value of using a human rights-based approach when planning, implementing and monitoring national policies. The High Commissioner was encouraged to continue supporting States with technical assistance and advisory services in mainstreaming human rights in public policymaking and policy implementation. Delegations also underlined the importance of ensuring that policies were conceived founded on broad-based participation and consultative processes that engaged all the relevant stakeholders in the country. That was particularly important in countries with large and diverse populations. Transparent and impartial mechanisms for cooperation were important to ensure the quality of support. There was further general agreement that exchanging best practices was an important tool for policymakers to identify suitable

models for the implementation of human rights through public policies and programmes. National policies and programmes formed a vital bridge between norms and concrete State action on the ground.

38. Most delegations highlighted the value of the recommendations from international human rights mechanisms as a basis and guidance for national policymaking, in line with the fundamental principles of non-discrimination, impartiality, non-selectivity, accountability, transparency and the rule of law. Panellists were asked to elaborate on how international human rights mechanisms could contribute to implementation at the national level. Some delegations noted that States implemented their human rights obligations in line with their national constitutional structure and cultural dynamics. They stressed that human rights-based programmes were most effective when they took into account such special national circumstances and were aligned with national development priorities.

39. Note was also taken of the role of national human rights institutions in monitoring and supporting the implementation of human rights-based policies and programmes at the national level. Participants shared their experiences of developing and implementing national human rights action plans, and there was general agreement that such plans were vital to the effective implementation of human rights as they ensured that all public policies were in line with a country's international human rights obligations. Participants underlined the importance of developing such plans in a participatory manner that allowed wide segments of the population to contribute. Many delegations emphasized the invaluable contribution of civil society in the protection and promotion of human rights in their countries.

40. Most delegations agreed that coordination and coherence were key to successful policymaking and implementation, and many gave examples of various standing committees and other institutions they had established in order to support the effective protection and promotion of human rights. The availability of sufficient resources, both monetary and human, was referred to by many participants as a common obstacle to progress in this field. The need for further capacity development on human rights mainstreaming and implementation among key State officials and institutions was also emphasized by many participants. Additional international cooperation and support at the request of States was needed to address these gaps.

41. Delegations appreciated the fact that the format and arrangements of the panel discussion had been adapted to accommodate persons with disabilities, including through captioning and other special measures. Many expressed the hope that in the future all sessions of the Human Rights Council could follow the same adapted format.

42. Several delegations emphasized the importance of using well-crafted human rights indicators as an analytical tool that allowed policymakers to identify social and economic disparities that affected specific locations or particularly marginalized or vulnerable groups. They further recognized that precise indicator frameworks were needed in order to measure impact and progress in the implementation of public policies and programmes. The panellists were asked to share ideas of how such indicators could be further developed and better used in improving rights-based policies at the national level.

43. Non-governmental organizations strongly supported human rights-based approaches to policy development and implementation at the national level, and urged States to renew their efforts to ensure broad-based participation of all segments of society in such processes. Whereas there was strong support for national human rights action plans, some organizations observed that not all plans were fully inclusive and participatory in their approach, thus limiting their impact and effectiveness. Some organizations also called for more effective and consistent follow-up to international human rights recommendations,

while others identified the rights of migrants and other non-nationals as requiring further attention.

44. With regard to the use of human rights indicators, it was noted that specific outcome indicators were needed alongside structural and process-oriented indicators. One participant also lamented the lack of inclusiveness and genuine participation in some instances when national plans had been developed. OHCHR was further encouraged to provide more assistance to States to strengthen the protection of human rights defenders. Special measures were needed to address instances of threats, attacks and reprisals against individuals who cooperated with international human rights institutions. National action plans on business and human rights also needed to include measures to protect human rights defenders. States were therefore encouraged to adopt guidelines for the protection of human rights defenders, along the lines of policies developed by Finland, Ireland, the Netherlands, Norway and Switzerland.

45. One national human rights institution underlined the importance of engaging a wide range of partners across government in drawing up and implementing national human rights action plans, and outlined its own experience of promoting access to justice and child rights through a national action plan.

46. The moderator then asked the panellists to respond to the comments and questions from the floor. Mr. Magazzeni agreed that human rights indicators were essential in the implementation of human rights standards and were key to transparent and effective policy development and impact assessment. He said that in response to the strong demand from States, OHCHR had developed a human rights indicator framework, which was available to all States as guidance on how to better monitor and implement their human rights obligations.

47. On the issue of alignment of human rights recommendations with national development priorities, Mr. Magazzeni referred to experiences that showed how national human rights action plans and national coordination mechanisms could support implementation, especially when they were designed and implemented in an inclusive and participatory manner. He said that it was also important to include regional standards and recommendations from regional human rights bodies as part of a coordinated and coherent policy framework for human rights implementation at the national level.

48. Mr. Cárdenas said that policy implementation through a human rights-based approach was the best way to ensure that all rights-holders could be part of the process and benefit from the outcomes. He underlined that it was the responsibility of the State, through all its organs—judicial, legislative and executive—to ensure that human rights were realized through public policies and action. People needed to be made aware of their rights and empowered to claim what they were entitled to. That required training of both duty-bearers and rights-holders, especially the most vulnerable and marginalized groups such as indigenous communities or persons with disabilities. Government officials needed to be better equipped to work with these target groups. Non-governmental organizations also had a vital role in educating and empowering people to know and claim their rights.

49. Mr. Muñoz said that human rights had been introduced as a cross-cutting theme in Ecuador's national development plan, and that all civil servants were being held accountable for their performance in implementing human rights in their respective fields. He fully agreed that coordination and participation were key to successful policy planning and implementation, and explained that Ecuador had taken decisive steps to address the lack of coherence and inclusiveness in its own implementation framework.

50. Ms. Aliane noted that setting up strong human rights institutions at the national level was a priority, adding that this had to be supported by adequate legislation to facilitate the implementation of decisions and recommendations. Such initiatives had to be based on

solid research and reliable data, so that policy measures could reach the most marginalized and vulnerable.

51. Mr. Muntarbhorn referred to the multifaceted nature of technical assistance, which could consist of funds, capacity-building, advisory services, education, information sharing, technology exchange and other forms of cooperation. He also observed that delivering technical assistance in conflict situations was a complex and challenging task. He said that the United Nations had two main funds for human rights technical cooperation: the Voluntary Fund for Technical Cooperation in the Field of Human Rights, and the Voluntary Fund for Financial and Technical Assistance in the Implementation of the Universal Periodic Review. He added that there was more room for developing South-South cooperation under the auspices of these funds. He also said that un-earmarked funds gave more flexibility for OHCHR to manage and allocate resources for its programmes. He said that new ways for civil society to access such funds should be explored.

52. The United Nations Secretariat had additional funds that also supported human rights implementation, such as the Democracy Fund and the Human Security Fund. The United Nations development assistance frameworks and the common country assessments also provided entry points for United Nations support for human rights implementation in cooperation with national Governments and civil society partners.

53. The ongoing work to articulate the sustainable development goals offered yet another opportunity for human rights cooperation. He said that international cooperation, including through South-South and multi-partner arrangements, had to be coupled with efforts to mobilize civil society and the business community, and introduce more systematic human rights auditing of budgets. National and local-level budgets also needed to be reviewed to better respond to human rights priorities.

54. Mr. Nesi referred to United Nations assistance to the European Union in setting up frameworks to combat trafficking in human beings as a positive example of how the Organization could contribute to regional arrangements generally and to European Union policies specifically. Underlining the importance of international cooperation by all parties concerned in the fight against human trafficking, Mr. Nesi commended the European Union on its initiative in benefiting from United Nations advice and assistance in this particularly complex and sensitive field.

55. In the second round of comments and questions from the floor, delegations again underlined that all human rights were universal, interdependent and interrelated. Many recognized that human rights protection and promotion as a cornerstone for development, reconciliation, peace and security. Some speakers emphasized that States had the right to choose the framework that was best suited to their particular needs. International cooperation in support of national efforts should therefore be based on requests from the States concerned and be implemented in close cooperation with the national authorities.

56. Delegations also called for closer adherence to the recommendations of the treaty bodies, special procedures, the Working Group of the Universal Periodic Review and OHCHR in the development of national policies and strategies for the implementation of human rights. Others drew attention to the crucial role of civil society and national human rights institutions in supporting the development of human rights-based policy and development frameworks that ensured a link between international legal commitments and domestic implementation. One delegation asked the panellists for their views as to how non-State actors could be more closely involved in defining national policies, so as to ensure that those frameworks were more respectful of human rights.

57. Another speaker highlighted the merits of holding annual gatherings of politicians, civil society and the general public to discuss major policy issues, such as migration and

State budgeting. Others gave examples of State bodies set up at the highest level, and with a broad representation of civil society, to ensure coordination and coherence in policymaking.

58. Many delegations agreed that constitutional guarantees for human rights protection and promotion, as well as participation and inclusion in public life, were essential for sustainable development and poverty reduction. National human rights action plans were instrumental in strengthening human rights protection for vulnerable groups, including migrants, persons living with HIV/AIDS and persons at risk of discrimination because of their sexual orientation.

59. One delegation gave examples of how national policies could be developed with a view to protecting the rights and interests of indigenous peoples and raising public awareness of human rights and fundamental freedoms. There was general agreement on the need, globally, to strengthen measures to promote and protect the rights of persons with disabilities through appropriate planning of transportation, housing, education and other facilities.

60. Technical assistance in the field of human rights was recognized as pivotal in ensuring the alignment of national policies with international legal norms and commitments. Member States who could afford to do so were encouraged to contribute generously to the Voluntary Fund for Technical Cooperation in the Field of Human Rights and the Voluntary Fund for Financial and Technical Assistance in the implementation of the universal periodic review. It was recognized that OHCHR would need additional funds to be able to help States address capacity and implementation gaps. Assistance in implementing universal periodic review recommendations was deemed particularly important in this regard.

61. One delegation asked the panel to reflect on the main challenges in building human rights indicators systems, and provide best practices of involving civil society in strengthening human rights policies. Another speaker referred to the role of OHCHR in advising the European Union in developing its anti-trafficking policies and in training border guards on how to apply and respect relevant international human rights standards.

62. One national human rights institution underlined the importance of participatory and inclusive processes in the design and implementation of national development plans. Such initiatives also needed to be accompanied by legal reform and institutional strengthening so that policy objectives could be translated into reality for all.

63. A speaker representing civil society expressed concern that, despite technical assistance, some States still failed to establish adequate accountability frameworks and protect human rights defenders from threats and physical attacks. The speaker asked the panel to comment on how States could be made more accountable for realizing human rights beyond the mere enactment of legislation.

64. Another non-governmental organization pointed out that sanctions were often used as excuses by some countries for not living up to their human rights obligations. The speaker asked the panel what steps could be taken if there was a lack of political will on the part of States to respect human rights.

IV. Concluding observations

65. **Following the second round of comments and questions, the Chair gave the floor to the moderator and the panellists for their concluding observations. Mr. Muntarbhorn, responding to a query about the role of non-State actors in policy development, said that the term was very broad and was often understood to encompass not only civil society, but also the business sector and the media. As the**

main entry points for non-State actors, Mr. Nesi identified consultative processes and mechanisms such as public hearings, enquiries and other open forums for discussion and exchange of views. Other avenues could include local and national assemblies.

66. He said that human rights impact assessments were also important as they allowed all stakeholders and beneficiaries to be part of the national planning process. However, real participation needed to be broad-based and pluralistic, and to include vulnerable and marginalized groups. The business sector had an important role to play through corporate social responsibility, which also needed to be based on participation and inclusiveness. The importance of accountability in development was also increasingly recognized within the United Nations system. In this regard, it was necessary to understand accountability as a strategy consisting of several important elements. The first and foremost component was a functioning national justice system. If the national system did not work, one had to turn to linkages between national and international accountability.

67. Mr. Nesi observed that the role of the International Criminal Court was often mentioned and he recalled the possibility that permanent members of the Security Council had to block the prosecution of specific cases through the use of their veto. This, in turn, had led the discussion towards considering the possible role of the General Assembly in endorsing the prosecution of cases or setting up special ad hoc tribunals. A State could in some instances also resort to extraterritorial jurisdiction in pursuing its nationals for criminal acts committed abroad or when its nationals had become victims of acts outside its territory. Another option to explore was universal jurisdiction through which a State could use its jurisdiction to pursue non-nationals regardless of where the crimes had been committed. With regard to national policymaking, the most essential elements were good laws linked to effective enforcement measures through the courts. National human rights institutions also had a crucial role to play.

68. Mr. Magazzeni underlined the important contribution national human rights institutions and civil society could make to national policy development and implementation. Those actors could help identify capacity and implementation gaps, and monitor implementation against indicators and benchmarks. Through their involvement with international mechanisms, such as the universal periodic review, they could also participate at the international level. In the experience of OHCHR, national human rights action plans had proven to be effective instruments for coherent and effective human rights implementation.

69. He said that the most successful plans included a strong element of participation, involving all relevant stakeholders. The Board of Trustees of the Voluntary Fund for Technical Cooperation in the Field of Human Rights had also observed that a human rights-based approach involving civil society and national human rights institutions at all stages of national planning was essential to the effective implementation of programmes. Broad participation also strengthened national ownership, which, in turn, increased the impact and sustainability of development initiatives.

70. Mr. Nesi said that many States gave primacy to international law over domestic legislation, which could be the best way to ensure that the country's human rights obligations were incorporated into national policies. It was also important for judges to be aware of that principle and take it into account in their work to render justice through the national court system.

71. Mr. Cárdenas said that the use of human rights indicators was a key instrument in policymaking in Paraguay. Such frameworks were being used to

monitor the implementation of international human rights recommendations and to facilitate follow-up action by the legislative, executive and judicial authorities. That mechanism provided all citizens with access to information so that they could follow how the State was making progress in implementing its policies. Paraguay was also benefitting from technical assistance from OHCHR in developing specific indicators for the implementation of economic, social and cultural rights, to allow for the disaggregation and monitoring of social and economic data. A comprehensive indicator framework also made it possible to better monitor budgetary allocations for the implementation of rights-based policies.

72. Mr. Muñoz emphasized the need to go beyond traditional development indicators, which usually focused on economic growth and gross domestic product measurements. In this regard, Ecuador had established national goals for "living well", measured through the use of human rights indicators. The Constitution further provided for broad-based participation in national policy processes and in the preparation of development plans. As a measure of accountability and transparency, the National Assembly had to adopt national development plans before they entered into force.

73. Ms. Aliane underlined the importance of ensuring that women could fully and meaningfully participate in all aspects of national planning and decision-making. Women constituted an invaluable talent pool that had to be used effectively for national development. Through clear political will, Algeria had been able to make considerable progress in the advancement of women, in terms of legal reform and institutional strengthening.

74. In concluding the discussion, the moderator thanked the panellists, delegations, national human rights institutions and non-governmental organizations for their interventions and contributions. He recalled that the aim of the panel discussion had been not to propose one single model for policies, but rather to share good practices that could inspire States in their pursuit of national polices and strategies for the implementation of human rights. One theme that had been emphasized by most participants was the need for national action to be based on participation, inclusion, non-discrimination, accountability and the rule of law. There had also been general agreement on the importance of engaging civil society and national human rights institutions in all stages of national planning and decision-making. Finally, the moderator noted the crucial role of international cooperation, including South-South cooperation, in providing effective technical assistance and capacity-building to all relevant partners.

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Human rights bodies and mechanisms

Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*

Report of the Secretary-General

Summary

The present report is submitted pursuant to Human Rights Council resolution 12/2. In the report, the Secretary-General highlights relevant initiatives and efforts made by the United Nations system and other stakeholders in tackling the issue of reprisals. It contains information on alleged acts of intimidation and reprisal against individuals and groups for seeking to cooperate, cooperating or having cooperated with the United Nations, its representative and mechanisms in the field of human rights gathered from 1 June 2014 to 31 May 2015, including follow-up information on cases discussed in the previous two reports.

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I. Introduction

1. In its resolution 12/2, the Human Rights Council condemned all acts of intimidation and reprisal against individuals and groups who seek to cooperate, are cooperating or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights committed by State and non-State actors. As mandated by resolution 12/2, I have reported annually on cases of alleged intimidation and reprisals and analysed relevant developments within the United Nations system and made recommendations on how to address this issue.

2. As I have stressed in my previous reports, all acts of intimidation and reprisal, no matter how subtle or explicit, are completely and utterly unacceptable and should be halted immediately and unconditionally. The targeting of individuals or groups seeking to cooperate, cooperating or having cooperated with the United Nations in the field of human rights, their families, legal representatives and affiliated non-governmental organizations runs contrary to the principle of human dignity and violates numerous human rights, showing complete contempt and disregard for the United Nations system as a whole.

II. Developments in response to acts of intimidation and reprisal

3. On 8 September 2014, the United Nations High Commissioner for Human Rights, in his opening statement to the Human Rights Council at its twenty-seventh session, condemned all acts of reprisal against individuals for their engagement with the United Nations stressing that their continued support and contributions are needed to realize progress and encouraging the Council to ensure that their voices can be raised safely. On 22 October 2014, in his address to the General Assembly at its sixty-ninth session, he added that "if despite all the power and authority at its disposal, the future of a Government hangs on a tweet, a street protest or a helpful report to an NGO or UN agency, then that Government is in far deeper trouble than it believes. For it has forgotten the fundamental principle that the State is the servant of its people – not the other way round". On 2 March 2015, at the twenty-eighth session of the Council, he appealed to States to "focus on the substance of the complaint rather than lash out at the critic".

4. On 25 February 2015, the Director-General of the United Nations Office at Geneva, during the annual civil society briefing, stated that he would continue to work closely with the Office of the High Commissioner (OHCHR) and remain vigilant to situations of intimidation and reprisals. While awaiting further action on Human Rights Council resolution 24/24 by the General Assembly, I welcome the proactive stance of the different United Nations human rights representatives and mechanisms and their recent steps taken towards providing a coherent and coordinated response to reprisals.

5. Over the past year, the Presidency of the Human Rights Council has developed a consistent approach to all cases of intimidation or reprisal relating to the Council, its mechanisms and procedures brought to its attention. During the twenty-seventh session, on 19 September 2014, and at each subsequent session, the President reminded those present of the Council's firm position that any act of intimidation or reprisal against individuals or groups, or anyone linked to them, is unacceptable, and that all such cases brought to the President's attention would be followed up bilaterally with the States concerned. During his closing statement at the twenty-eighth session, on 27 March 2015, the President expressed his alarm at the continued reports of intimidation and reprisals against those that sought to cooperate with the Council, and stated that much more needed to be done to stop these attacks.

6. At the twenty-seventh session of the Human Rights Council, a number of States drew attention to the issue of reprisals by referring to my report (A/HRC/27/38) and expressed their concern and condemnation of such acts. In addition, further to the roles and responsibilities of States and the United Nations system in addressing the issue of reprisals specified in several Council resolutions, the Council, in its resolution 27/18, recognized the role that national human rights institutions can play in preventing and addressing cases of reprisal as part of supporting the cooperation with the United Nations in the promotion of human rights.

7. At their 26th annual meeting, held from 23 to 27 June 2015, the Chairpersons of human rights treaty bodies reiterated their strong condemnation of intimidation and reprisals against persons seeking to engage with the treaty bodies and invited all treaty bodies that had not yet done so to establish the mandate of rapporteur on reprisals (A/69/285, paras. 107-109). In follow-up to the meeting, the Subcommittee on Prevention of Torture announced on 26 February 2015 that it had appointment one of its members as a reprisals focal point. At their 27th meeting, held from 22 to 26 June 2015, the Chairpersons further developed and adopted a set of guidelines against intimidation or reprisals, the "San José Guidelines" (HRI/MC/2015/6).

8. When presenting the annual report of the special procedures to the Human Rights Council at its twenty-eighth session (A/HRC/28/41), the Chairperson of the Coordination Committee of Special Procedures stressed that the ability of individuals and groups to raise concerns with special procedures without fear of reprisals was vital to their ability to discharge their respective mandates. He stressed that reprisals are a critical challenge facing not only special procedures but the whole United Nations system. A coordinated response to these unacceptable practices should therefore come from the United Nations system as a whole. While referring to Council resolution 24/24, he reiterated the support of the special procedures for the designation of a United Nations focal point on reprisals.[1] Several special procedure mandate holders individually also raised concerns over acts of intimidation and reprisal; some even reported that they had witnessed such acts being committed in person during country visits, and called upon the Council to take action on these cases (A/HRC/28/66/Add.2, para. 84 (c) and A/HRC/29/25/Add.2, paras. 13-17). In follow-up to the annual meeting of the special procedures in 2014, at which mandate holders had identified the need to develop a systematic approach to the issue of reprisals, they adopted modalities for an enhanced response to the issue at their meeting in 2015 and decided to appoint a focal point on reprisals from among Coordination Committee members.

9. In my previous report, I referred to the concerns expressed by various stakeholders over the large number of deferrals of applications of non-governmental organizations for consultative status with the Economic and Social Council by the Committee on Non-Governmental Organizations (A/HRC/27/38, para. 8). The Special Rapporteur on the rights to freedom of peaceful assembly and of association reflected similar concerns in his most recent report to the General Assembly (A/69/365, paras. 73-74 and 88 (a)). The Committee has a key role to play in ensuring that non-governmental organizations may participate in the work of the United Nations and have access to human rights mechanisms. I call on the Committee to apply the criteria for assessing non-governmental organizations in a fair and transparent manner.

10. I reiterate my strong belief that the issue of reprisals needs a consistent approach at international and regional levels. In this context, I reiterate my appreciation for the strong stance taken by the Secretary-General of the African Commission on Human and Peoples' Rights, as expressed on 26 June 2014 during the twenty-third African Union summit. The

[1] OHCHR, "François Crépeau, the Chairperson of the Coordination Committee, presents the annual report of special procedures to the Council", 18 March 2015.

Commission focal point on reprisals stated at its fifty-sixth ordinary session that there was a genuine need to pursue dialogue with all stakeholders and to put in place mechanisms that are both persuasive and deterrent, and indicated that a road map had been elaborated for that purpose and that a detailed report on cases of reprisals would be presented at each session.[2] Both the Inter-American Commission on Human Rights and the Commissioner on Human Rights of the Council of Europe have also publicly denounced acts of intimidation and reprisal against individuals and organizations cooperating with them.[3] I encourage the United Nations, its representatives and mechanisms and their regional counterparts to continue to strengthen cooperation and mutually reinforce each other's efforts in addressing reprisals.

III. Information received on cases of reprisal for cooperation with the United Nations, its representatives and mechanisms in the field of human rights

A. Methodological framework

11. The present report covers information gathered from 1 June 2014 to 31 May 2015 and, in accordance with Human Rights Council resolution 12/2, contains information on acts of intimidation or reprisal against those who:

- Seek to cooperate, or have cooperated with, the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them
- Avail or have availed themselves of procedures established under the auspices of the United Nations for the protection of human rights and fundamental freedoms, and all those who have provided legal or other assistance to them for that purpose
- Submit or have submitted communications under procedures established by human rights instruments, and all those who have provided legal or other assistance to them for that purpose
- Are relatives of victims of human rights violations or of those who have provided legal or other assistance to victims

12. Information about acts of intimidation and reprisal has been received in relation to cooperation with OHCHR, including its field presences, the Human Rights Council, the universal periodic review mechanism, human rights treaty bodies, the special procedures, the commission of inquiry on Eritrea and the independent commission of inquiry on the 2014 Gaza conflict. The information was verified and corroborated by primary and other sources, where available, and in most cases reference was made to the United Nations publication in which the information included in the present report was first made public. The report also reflects public responses or reactions from Governments received by 31 July 2015.

13. Additional information received on cases included in my previous two reports has been included under the follow-up section (see annex).

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[2] Inter-session report of Commissioner Gansou, May 2014 – April 2015, African Commision on Human and Peoples' Rights, fifty-sixth ordinary session.

[3] See Organization of American States, "IACHR wraps up its 154th session", 27 March 2015, and annual activity report 2014 by Nils Muižnieks, Council of Europe Commissioner for Human Rights.

14. It should be recalled that the cases included in the present report are not exhaustive. They are examples of a larger number of mostly invisible cases. In accordance with the principle of do no harm, risk assessments were conducted on a case-by-case basis, resulting in the exclusion of those cases where the risk to the safety and well-being of the individuals concerned was deemed too high.

B. Summary of cases

1. Bahrain

15. On 14 October 2014, a number of special procedure mandate holders raised concerns over possible acts of reprisal against Nabeel Rajab, President of the Bahrain Center for Human Rights, in connection with his arrest and detention on 1 October 2014, a day after returning to Bahrain from Europe where he had met with representatives of OHCHR (A/HRC/28/85, case BHR 13/2014). The Government, in its response dated 24 November 2014 (ibid.), stated that there had been no reprisals but that Mr. Rajab had been charged with publicly defaming the Ministry of the Interior and security forces in relation to statements that he had posted on his Twitter account, and that the court had ordered his release pending trial but banned him from travelling. In its letter on reprisals of 13 May 2015, the Committee against Torture expressed its fear that Mr. Rajab might have been rearrested and detained on 2 April 2015, this time in connection with the submission by the Bahrain Center for Human Rights of an alternative report submitted to the Committee for its fifty-fourth session. Following his arrest, Mr. Rajab was reportedly detained at the Isa Twon detention centre and his house raided by government security forces. The Ministry of the Interior reportedly subsequently announced that Mr. Rajab had been "captured" after publishing information that would harm civil peace and insulting a statutory body. As reported by the Committee in its letter on reprisals of 13 May 2015, on 11 May 2015, the High Court of Bahrain reportedly extended Mr. Rajab's detention by 15 days. At the time of finalization of the present report, no response to the letter sent by the Committee had been received from the Government.

2. Burundi

16. The Committee against Torture, in its letter on reprisals of 25 November 2014, referred to allegations of serious threats against Pacifique Nininahazwe, President of Forum pour la conscience et le développement, following his briefing to the Committee in relation to its consideration of the second periodic report of Burundi at its fifty-third session (CAT/C/BDI/2). On 28 November 2014, the Committee addressed a second letter to the Government in which it stated that it had also been informed of serious threats against Mr. Nininahazwe's family. In its reply of 5 December 2014, the Government denied the allegations, stating that while no one would be prosecuted for the legal exercise of their human rights work, no one was above the law and the defence of human rights could not be invoked as grounds for violating the law.

3. China

17. In its concluding observations on the seventh and eighth periodic reports of China, the Committee on the Elimination of Discrimination against Women expressed concern that some reports that it received from non-governmental organizations had been censored by State agents and that some organization representatives feared reprisals by the State party as a result of their submission (see CEDAW/C/CHN/CO/7-8, paras. 32-33; see also CEDAW/C/SR.1251, paras. 21, 33, 58 and 61). The Committee also expressed concern at reports of travel restrictions imposed on at least one woman human rights activist who intended to brief the Committee, and recommended that the Government take all necessary measures to protect women human rights defenders and to ensure that no such travel

restrictions would be placed on anyone in the future. It also recommended that allegations that State agencies censored reports submitted by non-governmental organizations be investigated, and that preventive measures for non-occurrence be taken. When requested to comment on these concerns during the consideration of the report, a member of the delegation of China stated that the Government welcomed the efforts of non-governmental and civil society organizations to promote women's rights and that they were not subject to reprisals of any kind for their work (CEDAW/C/SR.1251, para. 61).

4. Cyprus

18. On 5 June 2014, the Committee against Torture, in a letter on reprisals, and a number of special procedure mandate holders referred to allegations of reprisals against Doros Polykarpou, Executive Director of Action for Support, Equality and Antiracism, for having submitted an alternative report on the situation of detained undocumented migrants, including at the Mennogeia Detention Centre, to the Committee prior to the consideration of the State's fourth periodic report (CAT/C/CYP/4) at its fifty-second session (see also A/HRC/28/85, case CYP 3/2014). On 29 May 2014, a few days after the Committee published its concluding observations, Mr. Polykarpou was reportedly arrested upon arrival at the detention centre by its administration for failing to pay a parking fine and transferred to the Central Prison in Nicosia, placed in a wing with convicted prisoners and denied access to a lawyer and drinking water. Mr. Polykarpou was released later that day after his organization paid the fine. The Government, in its response of 5 August 2014 to a communication by mandate holders, stressed that it attributed great significance to human rights instruments and had provided information on the arrest warrants issued against Mr. Polykarpou (see A/HRC/28/85, case CYP 3/2014). Taking into account the seriousness of the allegations, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, in his report submitted to the Human Rights Council at its twenty-eighth session, requested additional information (A/HRC/28/68/Add.1, paras. 130-133). At the time of finalization of the present report, the Government had not responded to the latest request of the Special Rapporteur or the letters addressed by the Committee.

5. Eritrea

19. The risk of reprisals against anyone cooperating with the commission of inquiry on human rights in Eritrea, or their relatives still residing in the country, was one of the main challenges that the commission faced in carrying out its mandate. Regardless of the country or location, almost all victims and witnesses in contact with the commission assumed that they were still being monitored in secret and were afraid to testify, even on a confidential basis, out of fear for reprisals by the Eritrean authorities against themselves and their family members residing in Eritrea. The commission witnessed one specific episode of such monitoring, and recalled that it is the primary responsibility of the States of nationality or residence to protect all persons who cooperated with it, and urged Member States to provide additional protection where necessary (A/HRC/29/42, paras. 17-18). During the interactive dialogue on the report at the twenty-ninth session of the Human Rights Council, the Government did not address the allegations of reprisals.

6. Gambia

20. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on extrajudicial, summary or arbitrary executions reported that their joint visit to the Gambia early in November 2014 had been conducted in an atmosphere of apprehension and genuine fear among civil society, victims, witnesses and other interlocutors about possible reprisals (A/HRC/28/68/Add.4, para. 96,

A/HRC/29/37/Add.2, paras. 80-81).[4] Despite assurances received from the Government that none of the individuals cooperating with the mandate holders would be threatened, harassed or punished, it was reported that some of the individuals no longer residing in the Gambia were after the visit being pursued by the authorities. Even though it was difficult to verify this information, the Special Rapporteur on torture received information concerning one such case that he considered credible.With regard to the report of the Special Rapporteur on summary or arbitrary executions, the Government expressed its dismay at the "biased manner" in which the report had been presented, stating that the allegations that it contained were unsubstantiated and lacked merit (A/HRC/29/37/Add.6, para. 1).

7. Honduras

21. On 5 May 2015, a number of special procedure mandate holders raised allegations of acts of intimidation against members of Plataforma EPU, a network of 51 civil society organizations, for their engagement with the universal periodic review process of Honduras prior to its review on 8 May 2015 (A/HRC/30/27, case HND 1/2015). On 6 and 7 April 2015, government officials reportedly publicly warned the national and international community of a smear campaign initiated by certain non-governmental organizations meant to taint the image of the country in the context of its review. On 9 April, the National Commissioner for Human Rights reportedly warned that certain groups might use events to pursue their own interests, referring specifically to the information submitted by non-governmental organizations for the review of Honduras. The media allegedly repeated these stigmatizing declarations for several days, including on 10 April, when they alleged that certain groups intended to sabotage the review of Honduras. On 13 April, in a public statement, a parliamentarian reportedly implied that these organizations received payments for discrediting the country (ibid.). At the moment of finalization of the present report, no response had been received from the Government.

8. Islamic Republic of Iran

22. On 11 June 2014, a number of special procedure mandate holders expressed grave concerns at allegations of reprisals against Omid Behrouzi, Behnam Ebrahimzadeh, Mohammad Sadiq Kabudvand, Sa'id Matinpour, Hossein Ronaghi-Maleki and Abdolfattah Soltani, all human rights defenders, detained in Evin prison, owing to the engagement of some of them with the United Nations human rights mechanisms (A/HRC/28/85, case IRN 9/2014). On 17 April 2014, during an inspection of detainees' personal effects in ward 350 of Evin prison, the six men, together with other detainees, were reportedly severely beaten by prison guards and security agents and transferred to solitary confinement for a period ranging from several days to two months. On 22 April 2014, the Speaker of the National Security Committee of Parliament reportedly justified the raid by attributing it in part to "a series of fabricated and unfounded reports" that had been passed on from inside Evin prison to "defiant elements such as the Special Rapporteur on the situation of human rights in Iran" (ibid.). At the time of finalization of the present report, no response had been received from the Government.

23. On 15 July 2014, a number of special procedure mandate holders, referred to allegations of reprisals against Hadi Esmaeilzadeh, a human rights lawyer and former member of the Defenders of Human Rights Centre, which was forcibly closed in December 2008 (A/HRC/28/85, case IRN 12/2014). On 31 May 2014, the Islamic Revolutionary Court sentenced Mr. Esmaeilzadeh to three years in prison for his involvement with the Defenders of Human Rights Centre, and to an additional year of imprisonment for having

[4] See also OHCHR, "The Gambia: UN human rights team prevented from completing torture and killing investigations", 7 November 2014

"spread propaganda against the State" by allegedly sending monthly reports by the Centre to the Human Rights Council and other human rights organizations. In its letter dated 7 January 2015, the Government stated that, as soon as details about Mr. Esmaeilzadeh's case were received from the High Council for Human Rights of the Judiciary of the Islamic Republic of Iran, they would be provided. It pointed out, however, that the allegations of acts of reprisal were not founded and had been denied by Iranian judicial officials (ibid.). At the time of finalization of the present report, the information had not yet been provided by the Government.

24. On 21 October 2014, a number of special procedure mandate holders expressed concerns about reported acts of reprisal against Saeed Shirzad, a human rights activist and member of the Society for Defending Street and Working Children in Iran (A/HRC/28/85, case IRN 25/2014). Mr. Shirzad was arrested on 2 June 2014 by officials from the Ministry of Intelligence in Tabriz and transferred to Evin prison in Tehran, where he was held in solitary confinement for two months. On 18 August, he was allegedly verbally informed of the charges against him, which included cooperation with the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran. In its reply dated 11 June 2015, the Government totally refuted the allegations of reprisals against Mr. Shirzad for cooperating with the Special Rapporteur (A/HRC/30/27, case IRN 25/2014).

25. On 25 November 2014, a number of special procedure mandate holders expressed in a joint communication their concern at reported reprisals against Dr. Mohammad Ali Taheri, who is serving a five-year prison sentence in solitary confinement, and his wife for engaging with the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran (A/HRC/28/85, case IRN 28/2014). In June 2014, media outlets released a letter that Dr. Taheri had addressed to the Special Rapporteur, in which he described human rights violations being committed in prisons in the Islamic Republic of Iran. On 2 July, the authorities reportedly arrested and detained his wife, releasing her only after she pledged to remain silent. A new charge of "corruption on earth" carrying the death penalty was subsequently brought against Dr. Taheri. In response, in October 2014, Dr. Taheri went on a hunger strike and, at the time of transmission of the communication, reportedly risked dying in detention (ibid.). At the time of finalization of the present report, the Government had not provided a response on this case.

26. In the same communication, the mandate holders also referred to reports of reprisals against Mohammad Reza Pourshajari, a blogger, in relation to his engagement with the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran. Mr. Pourshajari was arrested on 30 September 2014 by security forces in Orumieh and held in solitary confinement for 14 days before being transferred to Karaj prison on 14 October while awaiting trial on several charges, including for having been in contact with the Special Rapporteur. In a letter dated 21 April 2015, the Government confirmed the charges against Mr. Pourshajari of "embarking on propaganda against the Islamic Republic of Iran and futile attempt to illegally leave the country", while rejecting the other allegations as "utterly baseless" (A/HRC/29/50, case IRN 28/2014).

9. Israel

27. The independent commission of inquiry on the 2014 Gaza conflict, when presenting its report to the Human Rights Council at its twenty-ninth session (A/HRC/29/52), reported that some sources had feared for possible consequences of testifying before the Commission or of proactively cooperating with it. The Commissioners were disturbed by recent reports on the possible cancellation of national service allocation for Israeli non-governmental organizations in the context of the publication of its report, and added that the organizations cited in the media as potentially affected had in fact not cooperated with the commission. The commissioners pointed out the implications of such actions for the rights of human rights defenders and the right to freedom of opinion and expression.

10. Kazakhstan

28. In relation to his visit to Kazakhstan, the Special Rapporteur on the rights to freedom of peaceful assembly and of association reported that, on 23 January 2015, unidentified men took photographs of individuals leaving the building, in a manner commonly associated with secret police surveillance, where he had just held a meeting (A/HRC/29/25/Add.2, paras. 13-17).[5] The Special Rapporteur submitted a formal complaint to the authorities and received reassurances that a full investigation would be conducted. The next day, the authorities informed the Special Rapporteur that they had apprehended an individual who confessed to have taken the photographs; the Special Rapporteur did not, however, identify the man as one of those he had seen. He subsequently affirmed that the incident had been calculated to instil fear and intimidation, and reiterated that the authorities had to guarantee that no one with whom he met would be subjected to reprisals. The Government responded that the allegations were groundless and based on a misunderstanding (A/HRC/29/25/Add.5, para. 6). In his oral statement to the Human Rights Council at its twenty-ninth session, the Special Rapporteur reiterated his dissatisfaction with the incident, stated that the Government's explanation was unconvincing, and urged it to ensure that there would be no reprisals in relation to his visit. Kazakhstan, in its oral reply to the Special Rapporteur's statement, did not address the allegations of reprisals.

11. Kuwait

29. On 27 April 2015, a number of special procedure mandate holders referred to serious concerns over acts of intimidation and reprisal against Nawaf al-Hendal, founder of the Kuwait Watch Organization for Human Rights (A/HRC/30/27, case KWT 2/2015). On 22 January 2015, while in Geneva to attend the review of Kuwait during the universal periodic review, scheduled for 28 January, Mr. Al-Hendal learned that an arrest warrant had been issued against him by the State security apparatus of the Ministry of the Interior in relation to messages he had posted on his Twitter page. On 1 February, upon arrival at Kuwait International Airport, Mr. Al-Hendal was stopped and interrogated by officials on his participation in the review of Kuwait. On 23 March, three days after returning from Geneva where he delivered a statement to the Human Rights Council, Mr. Al-Hendal monitored – without participating in – a protest outside the National Assembly in Kuwait City in his capacity of Director of his organization. As police officers physically dispersed the crowd, they reportedly identified Mr. Al-Hendal and assaulted, arrested and detained him at the Criminal Investigations Department in Al-Salmiya. On 25 March, Mr. Al-Hendal was released from detention but prohibited from travelling pending his trial on charges of "participating in an illegal demonstration". The Government, in three separate replies, stated that no reprisals had been committed against Mr. Al-Hendal, and the travel ban imposed on Mr. Al-Hendal had been lifted (ibid.).[6]

12. Maldives

30. In a communication addressed on 3 October 2014 to the Government, a number of special procedure mandate holders referred to allegations of reprisals against the Human Rights Commission of Maldives. After having submitted a report to OHCHR on 14 September 2014 in view of the review of Maldives at the twenty-second session of the universal periodic review, and publishing it on its website, the Supreme Court of Maldives summoned the five members of the Commission to appear before the Court and, on 22

[5] See OHCHR, "Statement by the Special Rapporteur on the rights to freedom of peaceful assembly and of association at the conclusion of his visit to the Republic of Kazakhstan", 27 January 2015 and "Human Rights Council discusses freedom of opinion and expression and freedoms of peaceful assembly and of association", 17 June 2015.

[6] Ibid.

September, initiated a *suo moto* case against them. On 24 September, at the first hearing, the members were charged with "spreading wrongful information and giving a wrongful impression of the constitutional mandate of the Supreme Court". On 30 September, at the second hearing, the Commission members were allegedly questioned about the content of report prepared for the universal periodic review (A/HRC/28/85, case MDV 2/2014). At the time of finalization of the present report, no response had been received from the Government to the communication sent by the special procedures.

31. On 6 May 2015, during its review, the Government stated that the Human Rights Commission staff members enjoyed immunity from prosecution or complaints for acts done in good faith within the purview of their functions. Given however that the case against the Commission members had yet to be decided, the Government deemed it inappropriate to comment further on the issue. On 19 May, after having received reports that the Supreme Court had found the Commission's submission for the universal periodic review was unlawful and declared that the Commission had to comply with a set of 11 guidelines, the United Nations High Commissioner for Human Rights, in a press release, stated that the judgement appeared to be "designed to severely undermine its ability to engage with the United Nations human rights system".[7] On the same day, two special procedure mandate holders jointly called upon the Supreme Court of Maldives to reconsider its verdict.[8] On 19 June, the President of the Human Rights Council raised the case with the Council Bureau and referred to it in a general manner when, at the twenty-ninth session of the Council, he opened the general debate under item 6 on 26 June 2015.

13. Myanmar

32. On 12 August 2014, a number of mandate holders referred to allegations of reprisal against Sein Than, a human rights defender and leader of a movement denouncing the confiscation and demanding the restitution of Mi Chaung Kan land (A/HRC/28/85, case MMR 5/2014). On 31 July 2014, while on his way to the United Nations office to deliver documents for the Special Rapporteur on the situation of human rights in Myanmar, in follow-up to their meeting during her visit to the country earlier that month, Mr. Than was reportedly arrested with force, causing him injury, by 10 plain-clothed individuals who allegedly did not present an arrest warrant. He was reportedly subsequently detained on remand pending trial at Insein prison on charges related to the conduct of a peaceful assembly or procession without the permission of the authorities. In reply, on 27 October 2014, the Government affirmed that Mr. Than had been lawfully arrested, detained and sentenced for having organized processions and staged protests in different townships between March and May 2014 without prior approval (ibid.).

14. Oman

33. On 29 September 2014, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, with two other mandate holders, referred to allegations of reprisals against Tariq al Sabbahi in relation to his visit to the country from 8 to 13 September 2014 (A/HRC/28/85, case OMN 2/2014). On 10 and 11 September, after having met with the Special Rapporteur, Mr. Al Sabbahi received a telephone call summoning him to meet with officers from the internal security department. On 14 September, during the meeting, the internal security officers reportedly informed him that he was forbidden from contacting the Special Rapporteur or United Nations staff members, threatened him with

[7] OHCHR, "Supreme Court judgement gravely undermines Maldives Human Rights Commission – Zeid", 19 June 2015.

[8] OHCHR, "Maldives: UN experts urge Supreme Court to reconsider decision against Maldivian Human Rights Commission", 19 June 2015.

legal action and affirmed that such contacts could be authorized only by the Human Rights Commission of Oman. The Government, in its response of 16 December, denied the allegations of harassment, and explained that the main purpose of the meeting had been to "discuss the comments Tariq had made on the human rights situation in Oman in light of the contact he had with the Special Rapporteur" and that "the current procedures of the National Human Rights Committee allow individuals to submit any comments they may wish to make concerning human rights issues [...] so that individuals do not have to address those foreign organizations themselves" (ibid.).

34. Following reports of reprisals against Said Ali Said Jadad, a human rights defender advocating for democratic reforms in the country, three joint communications were addressed by mandate holders to the Government, on 11 November and 16 December 2014, and 29 January 2015. After meeting with the Special Rapporteur during his above-mentioned country visit, Mr. Jadad was reportedly subjected to greater surveillance. On 31 October 2014, while on his way to board a flight to Istanbul to attend a workshop for human rights defenders, Mr. Jadad was stopped, his passport confiscated and informed of a travel ban issued against him by border control officers at Muscat International Airport. On 10 December, members of the Oman Royal Police and the Internal Security Forces reportedly arrested Mr. Jadad at his house in Salalah. He was released on 22 December 2014 after his son's passport was confiscated as a guarantee, but rearrested on 21 January 2015, reportedly on charges of, inter alia, undermining the prestige of the State (A/HRC/28/85, case OMN 3/2014, and A/HRC/29/50, cases OMN 5/2014 and OMN 1/2015). In a press release of 30 January 2015, mandate holders urged the Government to release Mr. Jadad and to guarantee that no human rights defender in the country would be subjected to any form of reprisal.[9] In response to the second communication and the press release, on 20 February 2015, the Government rejected the allegations, explaining that Mr. Jadad had been arrested not for having met with the Special Rapporteur but because of violation of laws and regulations (A/HRC/29/50, case OMN 5/2014).

35. On 27 March 2015, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, together with two other mandate holders,raised concerns at alleged acts of intimidation and reprisal against Mohammad al-Fazari, a human rights activist and blogger, also for having met with him during his country visit (ibid., OMN 2/2015). On 22 December 2014, Mr. Al-Fazari was reportedly prevented from boarding a flight at Muscat International Airport and subjected to a de facto travel ban when his travel documents, including his passport, were confiscated. He was reportedly summoned to appear before the Special Division of the Omani Police in Muscat, where he was interrogated for eight hours without any information on the reason for his interrogation or de facto travel ban. His passport was not returned to him (ibid.). At the time of finalization of the present report, no response had been received from the Government. In his oral presentation to the Human Rights Council at its twenty-ninth session, the Special Rapporteur reiterated his dismay at all alleged cases of reprisals[10] and, in his report insisted that the Government clarify and determine whether reprisals occurred and keep him informed of the status of investigations, prosecution and protection plans put in place (A/HRC/29/25/Add.3, paras. 579-581). On 17 June 2015, in its oral reply to the Special Rapporteur's presentation, the delegate of Oman made no reference to the allegations of reprisals.

[9] OHCHR, "Oman: UN experts call for the immediate release of prominent rights activist as reprisals continue unchecked", 30 January 2015.

[10] OHCHR, "Human Rights Council discusses freedom of opinion and expression and freedoms of peaceful assembly and of association", 17 June 2015.

15. Saudi Arabia

36. Samar Badawi, a human rights defender advocating for women's rights and the release of her husband, Waleed Abu al-Khair, from prison, was the subject of a communication sent by a number of mandate holders on 6 January 2015 (A/HRC/29/50, case SAU 16/2014). On 16 September 2014, while Ms. Badawi was delivering her statement to the Human Rights Council at its twenty-seventh session, the delegation of Saudi Arabia made two points of order. Following her statement, Ms. Badawi reportedly received threats for having publicly raised the case of her husband before the Council. On 3 December, Ms. Badawi was reportedly prevented by security officials at King Abdulaziz International Airport from boarding a flight to Belgium to participate in a human rights forum, and was informed that a travel ban had been issued against her for an indefinite period (ibid.). In its reply of 13 May 2015, the Government stated that the allegations of reprisals were incorrect, that Ms. Badawi had been accused of having committed a number of criminal offences punishable by law and that the travel ban placed on her related to those charges (see A/HRC/30/27, case SAU 16/2014).

16. South Sudan

37. During the twenty-eighth session of the Human Rights Council, the President of the Council was informed of alleged reprisals against a civil society representative who planned to attend the session. On 13 March 2015, the President reported to the Bureau of the Council that he had met with the Permanent Representative of South Sudan in order to seek clarifications and that the State concerned had subsequently provided information on the current situation of the individual. The President stated that he would continue to follow the case, and reiterated his deep concern about cases of intimidation and reprisal against those seeking to engage with the United Nations in the field of human rights.

17. Syrian Arab Republic

38. On 21 November 2014, a number of mandate holders referred to allegations of reprisals against Jdei Nawfal, Director of the Centre for Democracy and Civil Rights in Syria, and Omar al-Shaar, a media activist and blogger (A/HRC/28/85, case SYR 8/2014). Both men participated in a workshop organized by the OHCHR Regional Office for the Middle East in Beirut from 28 to 30 October 2014. While returning to the Syrian Arab Republic on 31 October, Mr. Nawfal and Mr. Al-Shaar were reportedly arrested by Syrian security forces at the Lebanese-Syrian border crossing and detained in an office at the Syrian immigration post for approximately eight hours. They were then reportedly driven to the office of the Syrian State security intelligence agency in the area of Mazzeh, Rif Dimashq, after which their fate and whereabouts were reported as unknown (ibid). At the time of finalization of the present report, no response had been received from the Government.

18. Tajikistan

39. On 2 June 2014, a number of mandate holders referred to alleged acts of reprisal against Sadriddin Toshev, a detainee at Khujand prison, for having cooperated with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment during his official visit to Tajikistan in May 2012 (A/HRC/28/85, case TJK 3/2014). On 5 November 2012, Mr. Toshev was reportedly beaten and tortured in front of approximately 40 other prisoners by prison officials at Khujand prison who explicitly referred to his interaction with the Special Rapporteur and the United Nations more generally. Mr. Toshev was afterwards reportedly charged with fraud for deliberately inflicting wounds on his body with the aim of discrediting prison officials and for the distribution of false information, tried in closed court proceedings by the Khujand city court and, in October 2013, sentenced to nine years of imprisonment. On 25 January 2014, the

Sughd regional court reportedly rejected his appeal. The Government, in its response of 27 August 2014, indicated that criminal proceedings had been launched into this case and that by Mr. Toshev's own testimony it had become clear that there had been no acts of reprisal on the part of prison system employees (ibid.). The Special Rapporteur, in his report, stated that the response from the Government did not sufficiently address the concerns raised and should have made a serious attempt to ensure accountability for the seemingly grave violations committed against Mr. Toshev (A/HRC/28/68/Add.1, paras. 529-532).

19. Venezuela (Bolivarian Republic of)

40. Allegations of acts of intimidation and reprisal against Alfredo Romero, Executive Director of Foro Penal Venezolano, a non-governmental organization representing victims of arbitrary detention and torture, his family and members of the organization were addressed to the Government on 19 February 2015 by a number of mandate holders (A/HRC/29/50, case VEN 2/2015). Mr. Romero travelled to Geneva in November 2014 to meet with representatives of the United Nations human rights system. After his return, he, his family and the organization Foro Penal Venezolano were mentioned repeatedly on a Venezuelan television programme, "Con el Mazo Dando", during which they were reportedly referred to as conspirators against the system in the light of their cooperation with international human rights instruments and suspected of receiving funding from foreign countries. In addition, Foro Penal Venezolano reportedly received anonymous threats via Twitter. At the time of finalization of the present report, no response had been received from the Government.

20. Viet Nam

41. On 25 November 2014, mandate holders raised allegations of acts of intimidation and reprisal in relation to the country visit of the Special Rapporteur on freedom of religion or belief to Viet Nam in July 2014 (A/HRC/28/85, case VNM 11/2014). On 27 and 28 July 2014, a large number of independent Hoa Hao Buddhists were reportedly threatened and prevented from meeting with the Special Rapporteur during his visit to An Giang Province by police officers who had set up checkpoints in the area; the ashram and home of Bui Van Trunga were surrounded by police officers accompanied by a large number of individuals; Nguyen Hoang Nam was attacked by policemen and transported him to an unknown location where they left him with a head injury; and Bui Thi Diem Thuy noticed that she was being followed by four plain-clothed agents and thus decide not to meet the Special Rapporteur. Several Duong Van Minh believers also reported being harassed, questioned and some of them assaulted after having met with the Special Rapporteur. On 7 August 2014, Ma Van Pa was reportedly knocked unconscious after being hit by a motorcycle and his family warned by an unknown individual not to pursue the case; on 9 and 10 August, Ly Van Dung was reportedly followed by police officers when visiting his father-in-law in another village; and on 28 August 2014, Dao Dinh Hoang was reportedly visited by two police officers and questioned about his meeting with the Special Rapporteur (ibid.).

42. Bui Thi Kim Phuong and Nguyen Bac Truyen, who met with the Special Rapporteur in Ho Chi Minh City on 25 July 2014, were reportedly followed and threatened by the police while travelling to meet the Special Rapporteur at their house in Dong Thap Province, to which they had not been able to return since February 2014 when they were expelled. The area near their house was however surrounded by police officers and they were unable to meet the Special Rapporteur. On 28 August, Mr. Truyen was reportedly hit by a motorcycle in front of his temporary place of residence in Ho Chi Minh City and seriously injured. While the perpetrator was identified as one of the security agents who had been monitoring Mr. Nguyen and his wife, allegedly no investigation was conducted. Subsequently, on 5 November, three individuals reportedly set up a table at the doorstep of the residence of Mr. Nguyen and his family, blocking its entrance. Only when an official

from the General Consulate of France, who had been called for assistance, arrived and took photographs did the three individuals leave. The next morning, two neighbourhood guards from the police unit armed with batons were stationed in front of the residence (ibid.).

43. In his mission report, the Special Rapporteur expressed his deep concern and outrage at these reports and reiterated his request to the Government of Viet Nam to reconfirm its guarantee that none of the individuals with whom he met or intended to meet would be subjected to any form of reprisal (A/HRC/28/66/Add.2, paras. 4, 83 (s) and 84 (c)). In its response of 16 March 2015, to the joint communication (see A/HRC/29/50, case VNM 11/2014) and in its comments on the mission report (A/HRC/28/66/Add.4), the Government affirmed that it had cooperated fully with the Special Rapporteur during his visit and that the allegations had been fabricated, ill-intended and sought to "distort and tarnish" the situation of human rights in Viet Nam. In his oral statement to the Human Rights Council at its twenty-eighth session, on 10 March 2015, the Special Rapporteur emphasized that the acts of reprisal committed during his visit were a blatant violation of the terms of reference of the visit, to which the delegate of Viet Nam responded that there had been "no such harassment, threat nor reprisal against the persons who met with the SR as the SR just mentioned. We deeply regret this inaccurate misleading information, and probably misunderstandings".

IV. Conclusions and recommendations

44. The present report shows that acts of intimidation and reprisal against individuals and groups seeking to cooperate, cooperating or having cooperated with the United Nations in the field of human rights continue. The types of acts reported seem to have become more varied and severe over time, targeting not only the individuals or groups concerned but also their families, legal representatives, non-governmental organizations and anyone linked to them. This is a matter of grave concern to me and to the United Nations system as a whole.

45. Looking at the cases included in the present and in previous reports, a number of recurring, though non-exhaustive, types of act may be identified. They encompass threats and harassment by government officials, including through public statements, media smear campaigns and police surveillance, but also forced closure of organizations, including through the introduction of new legislation, physical attacks, travel bans, arbitrary arrest, detention, including incommunicado and solitary confinement, charges and sentencing, sometimes to lengthy prison terms, torture and other cruel, inhuman or degrading treatment or punishment, including sexual violence, denial of access to medical attention and, sadly, even death. Such acts not only show a complete disregard for the functioning of the United Nations as a whole but also highlight the fact that, despite repeated calls for action by States to end all such violations, impunity continues to surround them.

46. While it is the primary obligation of the State to protect those who cooperate with the United Nations in the field of human rights and to ensure that they may do so safely and without hindrance, the cases described in the present report suggest, worryingly, that acts of intimidation and reprisal are often perpetrated by government officials or representatives of the State.

47. I reiterate that any act of intimidation or reprisal against individuals or groups for their engagement with the United Nations, its mechanisms and representatives in the field of human rights is completely unacceptable and must be halted, immediately and unconditionally. Civil society representatives are indispensable partners for the United Nations. Any act of intimidation or reprisal against them undermines the effective functioning of the United Nations as a whole. We must therefore step up

efforts and collectively condemn such acts and take all measures necessary to ensure that all individuals and groups, without exception, may cooperate freely and safely with the United Nations, its mechanisms and representatives in the field of human rights.

48. I welcome the steps taken by the different parts of the United Nations, in particular the President of the Human Rights Council, the special procedures and the human rights treaty bodies, in developing ways of addressing the issue of reprisals in a more coherent and systematic manner, and encourage them to continue to coordinate their efforts in resolving this system-wide issue. I also welcome the efforts made by a number of States to provide protection to those individuals and groups engaging with the United Nations in the field of human rights, including during the sessions of the Human Rights Council in Geneva. Nonetheless, more concerted action is still urgently needed to address this issue at all levels. I urge all concerned to work cooperatively together to ensure that the current deadlock facing Council resolution 24/24 is overcome without further delay. In the meantime, I emphasize that the United Nations will continue to work for a solid and coordinated response to reprisals throughout the United Nations system as a whole.

49. In 2014 I also called upon States to take action at the national level and to refrain from, to take all appropriate measures to prevent the occurrence of, to ensure accountability for and to consider the establishment of a national focal point to address all acts of intimidation or reprisal against individuals and groups who seek to cooperate, are cooperating or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights. I urge all States to follow up and provide information, as appropriate, to the Human Rights Council on all measures taken, including on cases mentioned in the present report. In this context, I also recommend that the Council devote sufficient time to the discussion of the present report, and welcome the initial statements made by a number of States during the twenty-seventh session.

50. I encourage all stakeholders, including international and regional organizations, Member States, national human rights institutions, civil society and academic institutions, to continue to contribute to the future consideration of this issue by the Human Rights Council and the United Nations system as a whole.

Annex

[English only]

Follow-up information on cases of reprisal included in previous reports

1. China

1. In my previous report, reference was made to Cao Shunli, who had been campaigning for transparency and greater participation of civil society in the universal periodic review process of China and reportedly as a result was arrested, detained and denied medical treatment resulting in her death on 14 March 2014 (A/HRC/27/38, paras. 17-19). In his report of 10 June 2015, the Special Rapporteur on the rights to freedom of peaceful assembly and of association regretted not having received a response from the Government to the joint communication sent on 4 March 2014 (A/HRC/29/25/Add.3, paras. 240-244). The Rapporteur reiterated his utmost concern that the death of Ms. Cao might have been a reprisal for her continued cooperation with the United Nations in the field of human rights and urged the authorities to inform him of the results of the investigations of the circumstances leading to Ms. Cao's death, as soon as possible (ibid.). At the time of finalization of the present report, no response had been received from the Government.

2. Malaysia

2. The Coalition of Malaysian Non-Governmental Organizations was discussed in my previous report in relation to its engagement with the universal periodic review process of the country (A/HRC/27/38, para. 28). The Government of Malaysia by letter of 9 September 2014 reaffirmed its continuous support and commitment to the universal periodic review process and stated that all relevant stakeholders had been able to freely participate in Malaysia's review without any restrictions. According to the Government, the allegations of the Coalition were "utterly baseless" (A/HRC/28/85, case MYS 1/2014). In its press statement issued on 8 January 2014, the Malaysian Secretary-General of the Ministry of Home Affairs had not declared the Coalition illegal or unlawful but rather highlighted that it was not registered under the Societies Act 1996. The Government confirmed that no investigation and judicial or other inquiries were carried out in relation to the Coalition as no report by or against the Coalition were lodged with the relevant authorities (ibid.). The Special Rapporteur on the situation of human rights defenders, in his report of 4 March 2015, while encouraged by the fact that the Coaltion was no longer considered illegal, reiterated his grave concern at the apparent acts of reprisal against them (A/HRC/28/63/Add.1, para. 280).

3. Russian Federation

3. The "Law on Non-commercial Organizations which Carry Functions of Foreign Agents" and allegations of reprisals against the Anti-Discrimination Center Memorial via that law were mentioned in my previous report (A/HRC/27/38, para. 43). On 20 June 2014, mandate holders raised further concerns over the enforcement of, and amendments to, the Law and the Memorial with the Government (A/HRC/28/85, case RUS 5/2014). On 8 April 2014, the Saint Petersburg Court upheld that the Memorial was performing functions of a "foreign agent", reportedly for submitting information on police actions to the Committee against Torture. The Memorial refused to register as such and decided to dissolve its structure and continue its activities without registration. On 4 June 2014, the Duma voted in favour of amending the Law, reportedly allowing the Ministry of Justice to register, at its own initiative and without a court decision, non-commercial organizations as "foreign

agents" (ibid.). In its response dated 25 August 2014, the Government explained the procedures followed in the case of the Memorial and indicated that such registration should not be considered as interference of any kind in the rights to freely express opinions or form associations but that it aims at ensuring transparency and openness in their activities (ibid.). The Special Rapporteur on the rights to freedom of peaceful assembly and of association, in his report of 10 June 2015, expressed his continued grave concern in relation to the Law and the targeting of human rights organizations that engage with the United Nations human rights mechanisms (A/HRC/29/25/Add.3, para. 436).

4. Sri Lanka

4. In my previous report reference was made to Visuvalingam Kirupaharan, General Secretary of the Tamil Centre for Human Rights, in relation to his participation in the twenty-fifth session of the Human Rights Council (A/HRC/27/38, para. 34). The Government, on 24 July 2014, sought clarifications from mandate holders who had brought the allegations of acts of intimidation against Mr. Kirupaharan to its attention, indicating that there was no connection between the alleged sequence of events and the authorities (A/HRC/27/72, case LKA 5/2014). Mandate holders in response transmitted clarifications and their observations on the case to the Government referring to the fact that "States are the primary duty bearers in protecting, defending and promoting human rights, and as such, should address violations of human rights committed by both State and non-State actors" (A/HRC/28/85, case LKA 12/2014). At the time of finalization of the present report, no response had been received from the Government.

5. My previous report also discussed the case of 24 Sri Lankan civil society organizations that had reportedly been accused by the State-controlled Sri Lanka Rupavahini (TV) Corporation, in its English news bulletin, of having issued a joint civil society memorandum to the HRC (A/HRC/27/38, para. 33). On 24 September 2014, the Government of Sri Lanka, in response to the joint communication transmitted by mandate holders, stated that the Sri Lanka Rupavahihi Corporation was exercising its freedom of speech and expression within the set legal framework in Sri Lanka, however "unpalatable the contents of the newscast would have been to the said human rights defenders". If the human rights defenders felt wronged by such newscast they could invoke a civil action for damages under the laws of Sri Lanka for defamation (A/HRC/28/85, case LKA 4/2014).

5. United Arab Emirates

6. The case of Osama al-Najjar, who had reportedly become the subject of reprisals after meeting with the Special Rapporteur on the independence of judges and lawyers during her visit to the United Arab Emirates in February 2014, was included in my previous report (A/HRC/27/38, para. 37-38). The Special Rapporteur, in her oral statements to the Human Rights Council and the General Assembly in 2014, called on the authorities to take immediate measures to release Mr. Al-Najjar and open an independent investigation into the circumstances of his arrest and the serious allegations of torture. On 2 April 2015, mandate holders raised further allegations concerning Mr. Al-Najjar with the Government (A/HRC/30/27, case ARE 2/2015). On 25 November 2014, after a trial that reportedly lacked respect for the most basic due process and fair trial guarantees, Mr. Al-Najjar was sentenced to three years in prison and fined 500,000 Emirati Dirhams (about 136,000 USD) on charges of, inter alia, contacting foreign organizations and presenting inaccurate information (ibid.). The Government, in its response of 30 April 2015, listed procedural guarantees that had been in place in the case of Mr. Al-Najjar (ibid.). In his report of 4 March 2015, the Special Rapporteur on the situation on human rights defenders recalled that the Government had not responded to the earlier communication dated 16 April 2014 and stated that he was still awaiting a detailed response from the Government to the allegations and questions raised (A/HRC/28/63/Add.1, paras. 554-555).

6. Venezuela (Bolivarian Republic of)

7. The case of Judge Maria Lourdes Afiuni Mora has been raised in each of my previous reports since 2010 (A/HRC/14/19, para. 45-47, A/HRC/18/19, para. 87-90, A/HRC/21/28, para. 68-69, A/HRC/24/29, para. 46-48 and A/HRC/27/38, para. 46). The Working Group on Arbitrary Detention in its latest report again expressed its concern over the continued detention under house arrest of Ms. Afiuni, which it considers as a measure of reprisal against her for ordering the conditional release of Mr. Eligio Cedeño after the WGAD in Opinion No. 10/2009 had considered his detention arbitrary (A/HRC/30/36, para. 38). The Working Group reiterated its call on the Government of Venezuela to release Ms. Afiuni and to provide her with effective and adequate reparations (ibid.). In its concluding observations on the combined third and fourth periodic reports of Venezuela, CAT regretted that no investigation had so far been opened on the case of Judge Afiuni and stated that the Government should without delay conduct a thorough and impartial investigation into the allegations of torture and ill-treatment, including sexual assault, of Ms. Afiuni during her detention (CAT/C/VEN/CO/3-4, para. 16).

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Technical assistance and capacity-building

Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights

Report of the Secretary-General*

Summary

The present report is submitted pursuant to Human Rights Council resolution 24/29, in which the Council requested the Secretary-General to report to the Council at its thirtieth session on the role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights.

* Late submission.

GE.15-16092(E)

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I. Introduction

1. The present report is submitted to the Human Rights Council pursuant to Council resolution 24/29. It describes the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia from 1 June 2014 to 30 June 2015 and follows up on the previous report submitted to the Council (A/HRC/27/43).

2. Originally mandated by the Commission on Human Rights resolution 1993/6, the work of OHCHR in Cambodia is guided by a biennial resolution of the Human Rights Council (24/29), a biennial Memorandum of Understanding signed with the Government of Cambodia,[1] and the global mandate of the High Commissioner as set out by the General Assembly in its resolution 48/141. OHCHR looks forward to initiating discussions with the Government on the renewal of its mandate.

3. The period under review opened with the Government and opposition still at a political stalemate. The opposition Cambodia National Rescue Party refused to take the seats that it had won in the National Assembly in the election held in 2013, the official results of which it continued to contest. The Government had prohibited large-scale demonstrations. In July 2014, the opposition abandoned its demand for an independent investigation in to the election or for a re-election on the condition that the Government committed to key reforms, particularly electoral reform. The opposition subsequently occupied its seats in the National Assembly in August 2014, giving rise to a new bipartisan political climate characterized by a "culture of dialogue" between the two parties. A national electoral committee, with equal representation of both parties and one independent member, was reconstituted.

4. The human rights context normalized in the first half of 2015 following the easing of political tensions. Small-scale protests were tolerated, although were not entirely free of shows of force. Housing and land disputes continued to be the root cause of most protests and human rights violations in the country, such as infringements on the rights to freedom of expression, association, peaceful assembly and movement, and violations of economic, social and cultural rights, including of indigenous peoples. New pronouncements by the Government that it would review and, if deemed necessary, revoke some economic land concessions, however, gave reason for hope that some of these long-standing disputes would finally be resolved.

5. OHCHR followed closely the above-mentioned incidents, including housing and land disputes, ensuing protests and the responses to them involving the use of force, blockage of peaceful assemblies and resulting arrests, and violations of the rights of indigenous peoples. OHCHR sought remedial actions from duty bearers, monitored trials and the treatment of those held in detention, and advocated for the establishment or strengthening of national mechanisms and institutions for the protection of human rights. In partnership with the Ministry of the Interior and with the participation of local authorities, security forces, communities and civil society organizations, OHCHR organized a number of dialogues at the sub-national level in localities subjected to a high degree of social tension, with the aim of improving communication on the causes of conflict and of finding solutions thereto.

[1] The current Memorandum of Understanding covers the period from 1 January 2014 to 31 December 2015.

6. The economy was only slightly dampened by the turbulence, particularly in the garment sector, recording a strong overall 7 per cent annual growth rate in 2014 and projected to grow by 7.3 per cent in 2015. According to the new official poverty threshold introduced by the Government in 2013 (based on the cost of purchasing food equivalent to 2,200 kcal), the poverty rate fell from 47.8 per cent in 2007 to 18.9 per cent in 2012. Cambodia is on track to meet the Millennium Development Goal of halving poverty by the end of 2015[2] and is likely to graduate to lower middle-income country status by 2020. This achievement is precarious. The overall poverty rate encompasses sharp regional differences; some 90 per cent of the poor live in rural areas, and the margin by which most have graduated from poverty is slight. According to the World Bank Economic Update 2015, almost 3 million people are poor and more than 8.1 million are near poor.

7. The National Strategic Development Plan for the period 2014-2018, the implementation of which was estimated to cost $26.58 billion, was adopted in June 2014. Together with the governmental Rectangular Strategy phase III, they constitute the policy framework for national development in the mid-term future, which includes commitments to improve the governance framework for development.

8. Some public administration reforms have advanced, particularly the public finance management reform, which allowed for civil servants in a number of ministries to be paid by direct bank transfer rather than in cash. When expanded to all civil servants, the change will mark a significant advance in the fight against corruption by reducing the number of "ghost" workers. Corruption in all its forms remains widespread, however; according to one study,[3] Cambodians perceive the judiciary as the most corrupt State institution.

9. The lack of independence in the judiciary remains an obstacle to the protection of human rights. The Government has been pursuing reforms in court administration, which OHCHR is working to reinforce, in cooperation with the Government, by providing members of the legal profession with several concrete tools, designed in particular to assist judges in taking decisions on pretrial detention, improving case management by courts and assisting judges in their adjudication of criminal cases. One significant achievement has been the further reduction in cases awaiting appeal for an excessively lengthy period of time.

10. OHCHR continued to build the capacity of national counterparts. It reached out to local authorities about the Peaceful Demonstration Law and the use of force; with prison officials on the rights-based approach to prison management; and with government and private sector actors on business and human rights. Significant progress was made toward systematizing human rights training for law professionals in compulsory general training programmes for lawyers, judges and prosecutors, and in specialized training on the new pretrial detention form and a case management database, expanded to five courts by OHCHR. In addition, OHCHR considerably extended its outreach to the general public by means of a strengthened communications strategy, based on new tools such as a dynamic website and social media, as well as traditional publications, posters, print media and a radio programme. The OHCHR programme in Cambodia is informed by the conclusions and recommendations of United Nations treaty bodies, in particular those made by the Human Rights Committee in March 2015 on the State's implementation of the International Covenant on Civil and Political Rights (see CCPR/C/KHM/CO/2) at the universal periodic

[2] Asian Development Bank, Cambodia: Country Poverty Analysis 2014 **Error! Hyperlink reference not valid.**

[3] Transparency International Cambodia, "Corruption and Cambodia's Governance System: The Need for Reform", National Integrity System Assessment 2014.

review of Cambodia in January 2014 (see A/HRC/26/16). In the case of both reviews, the Office delivered considerable capacity-building for the Government and civil society.

II. Widening the democratic space

11. At the start of the period under review, large-scale demonstrations were held following in January 2014 a violent crackdown, on striking workers, which led to six fatalities. Political tensions abated when a deal was struck between the Government and the opposition in July. The Cambodia National Rescue Party subsequently concentrated on debating issues on current affairs in Parliament rather than on the streets. Demonstrations did, however, continue in various parts of the country, particularly on land and housing rights disputes, and were monitored by OHCHR.

12. OHCHR took initiatives to facilitate dialogue between citizens and the Government aimed at improving the promotion and protection of human rights. In December 2014, following several years of engagement, the Office embarked on a new programme of "provincial dialogues", in partnership with the Ministry of the Interior. The dialogues were aimed at improving local authorities' understanding of the expectations of the central Government for them, to better manage relations with the communities under their responsibility, in particular to resolve disputes at their level. In the framework of the dialogues, the Office and the Ministry of the Interior convened provincial and district-level governors, police and gendarmerie chiefs, commune chiefs and district and commune councillors in jointly selected provinces at a one-day forum, held together with members of local communities and civil society organizations. A representative of the Ministry outlined the Government's decentralization and deconcentration policy, the provincial governor explained the available dispute resolution procedures and mechanisms, and community members outlined their grievances. The aim was to find an agreement on resolving the disputes through peaceful dialogue.

13. In December 2014, OHCHR and the Ministry of the Interior co-organized the first provincial dialogue, held in Mondulkiri, home to the majority of Phnong indigenous communities, some of whom have been involved in long-standing land disputes, as well as the site of numerous complaints regarding the allocation of social land concessions. The event was attended by 123 participants, including 14 women. A second dialogue was held in Oddar Meanchey – another province with a large number of land and forestry disputes – in March 2015, with 138 participants, of whom 11 were women. Both dialogues allowed for extensive discussions on a number of grievances, mostly related to land issues. Community representatives welcomed the opportunity to raise their concerns directly with local authorities, which with the representatives of the Ministry of the Interior were given the opportunity to explain their mandates, regulations and scope for intervention. OHCHR offered to conduct a similar exercise at the district level in the future to allow specific disputes to be examined in greater depth.

14. OHCHR continued to build the capacity of subnational authorities to implement the Peaceful Demonstration Law in accordance with international human rights law. Fourteen briefings for law enforcement officers in five north-eastern provinces of Cambodia were delivered jointly by the OHCHR regional office in Battambang and the relevant offices of provincial prosecutors. In May 2015, also in conjunction with the provincial prosecutor's office, OHCHR briefed land activists and police officials in Pursat province on the Land Law and the Peaceful Demonstration Law. Such joint activities are actively pursued in the provinces most affected by confrontational protests. The responses of local authorities have varied.

15. OHCHR also continued to provide general and specialized training for civil society organizations. Three sessions were organized in 2015, focusing on basic human rights, freedom of expression, and civil and political rights.

16. On numerous occasions, OHCHR worked closely with civil society organizations to address specific situations, for instance in the aftermath of protests. It raised a number of cases involving human rights defenders, community activists and journalists with national and local authorities. OHCHR opened or followed up on approximately 90 cases on issues ranging from arbitrary detention, harassment and threats against human rights defenders and violations of fundamental freedoms, as well as forced evictions and high-profile land cases. In some land cases, OHCHR facilitated community meetings and the preparation of documents to be filed with provincial courts. In many cases, OHCHR followed up with the relevant authorities, visited human rights defenders in police stations and prisons, helped them to find a lawyer and monitored their trials with the aim of ensuring that justice would be served.

17. Following the resumption of work by a fully constituted National Assembly in August 2014, several laws with significant human rights implications were introduced or re-introduced before the Parliament, in relation to which OHCHR had sought to promote an inclusive participatory consultative process in conformity with the right to take part in the conduct of public affairs.[4] In late February 2015, the National Assembly received drafts of a law on the election of members of the National Assembly and of another on the National Election Committee, the contents of which had been agreed upon between the two parties. Within two weeks, the draft laws were publicly released, a half-day consultation was held, and the texts were adopted. The speed and closed nature of the adoption process gave little time for any meaningful analysis or debate with civil society organizations, political parties not represented in the National Assembly, academics and other independent voices.

18. After the period under review, several other draft laws with important implications for human rights were reportedly in various stages of preparation following a similar pattern of opacity. A draft law on associations and non-governmental organizations, the development of which had been put on hold since 2011, resurfaced in April 2015, when the Prime Minister declared that the Government would resume work on it. The latest draft was not shared by the Government, prompting civil society organizations to launch a "Stop and Consult" campaign. The draft was approved by the Council of Ministers, submitted to the National Assembly in June, and publicly released only three weeks before the National Assembly proceeded to adopt it on 13 July, after just a half-day public consultation, on 8 July.

19. The draft trade union law, developed by the Ministry of Labour and Vocational Training, was the subject of several rounds of consultations with trade unions, employers and the International Labour Organization through to 2011. In 2014, discussions on the draft law were resumed: a tripartite discussion was held in May; in October, the Government declared that it intended to adopt the law. At the time of finalization of the present report, the Government still had not shared the latest draft, which was reportedly nearly ready for submission to the Council of Ministers, prompting labour rights activists to join the latest protests against both the law on associations and non-governmental organizations and the trade union law. No official information is available on the status of the draft law on cybercrimes, which was reportedly revived in 2014 amid concerns that the draft could restrict the right to freedom of expression on the Internet.

[4] International Covenant on Civil and Political Rights, art. 25.

20. As noted above, OHCHR advocates for and supports meaningful consultations for the preparation of all draft laws, particularly those with important implications for human rights. OHCHR requested the ministries concerned to provide an official copy of the drafts under their respective responsibility in order to enable OHCHR to advise the Government on draft legislation that have implications for the protection of human rights. OHCHR, the United Nations Population Fund, the United Nations Children's Fund (UNICEF) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) jointly authored an opinion piece published in national newspapers for an inclusive process of consultation regarding the law on associations and non-governmental organizations.[5]

21. Some draft laws have been prepared in a more consultative manner. OHCHR provides inputs as a member of the Technical Working Group established to support the preparation of a draft law on access to information, which is co-chaired by the Ministry of Information and the United Nations Educational, Scientific and Cultural Organization (UNESCO). The working group includes other relevant State institutions and civil society organizations, which to date has allowed for greater transparency and in-depth discussions on the proposals of the Ministry and substantive inputs from a broad spectrum of society. Similarly, during the period under review, OHCHR participated in a working group regularly convened by the Ministry of the Environment to prepare a draft law on environmental impact assessments. The process was also inclusive, resulting in an improved text. The relevant draft law is near finalization.

III. Promoting the rule of law

22. Strengthening national capacity continues to be an important component of OHCHR work in the area of judicial reform. Following the organization in 2013 of a pilot course, comprising eight sessions, on fair trial rights for trainee lawyers at the Lawyers Training Centre, OHCHR, the Raoul Wallenberg Institute of Human Rights and Humanitarian Law and the Bar Association of the Kingdom of Cambodia agreed to develop a full 30-hour human rights course. The proposal was approved by the Bar Council in June 2014, and the course is now compulsory for all trainee lawyers.

23. The first course was delivered by OHCHR, the Raoul Wallenberg Institute and the Lawyers Training Centre to trainee lawyers in November 2014, and included specific sessions on fair trial rights with speakers from the Extraordinary Chambers in the Courts of Cambodia. In addition to the course curriculum, OHCHR and the Raoul Wallenberg Institute drafted a teacher training manual for prospective lecturers for the course. OHCHR and the Institute held a teacher training course in June 2015 to encourage the Lawyers Training Centre to consider jointly delivering the new human rights module and incorporating human rights components into its other courses. The course aims at ensuring that future lawyers will possess the knowledge necessary to protect fair trial rights.

24. OHCHR also embarked on discussions with the Royal Academy of Judicial Professions to integrate an equivalent programme in its own training for future judges and prosecutors. The President of the Academy agreed for OHCHR and the Raoul Wallenberg Institute to organize a human rights course for the next promotion of trainee judges to be recruited in the summer of 2015. In the meantime, at his suggestion, a course for in-service judges and prosecutors from all courts was held in April 2015.

25. The objective of the above-mentioned inaugural training was to improve participants' capacity to apply international human rights standards when drafting judgements and

[5] "The importance of trust", *Phnom Penh Post*, 12 May 2015.

submissions. The programme involved 27 judges and prosecutors from 12 provinces, the Court of Appeal and the Supreme Court. It included a study tour of the Extraordinary Chambers in the Courts of Cambodia and many practical discussions and exercises, covering, inter alia, fair trial rights, and the application of international human rights law in general and in respect of the Criminal Procedure Code. OHCHR developed comprehensive course materials for further use by the Ministry of Justice and its training institutions. According to their evaluation of the workshop, the participants found the training to be relevant and useful. The Ministry expressed interest in having the programme become an integral part of judicial education in Cambodia. Discussions are ongoing between the Ministry and the Royal Academy of Judicial Professions on the modalities and responsibilities.

26. OHCHR has continued to strengthen the tools for legal professionals to better ensure the delivery of justice. One tool that has proven to be useful for the improved application of criminal law has been the Annotated Code of Criminal Procedure, which was published by OHCHR in March 2014. The need to revise the publication was reinforced at a meeting held in October 2014 among national and international actors in Cambodia active or interested in promoting the legacy of the Extraordinary Chambers in the Courts of Cambodia – a meeting organized regularly by OHCHR to update each other on the activities of each participating organization – where a number of participants considered that it should be updated in view of relevant new jurisprudence. OHCHR thus began to update the draft, based on 319 decisions, interlocutory memoranda and orders issued by the Extraordinary Chambers. In May 2015, it held an expert workshop to review the updated draft. The experts validated the annotations; the revised annotated code was to be finalized in Khmer and English in July 2015.

27. Another important tool is a case management database for the courts of first instance. The Ministry of Justice is proceeding in the implementation of the Law on the Organization of the Court Organs and Law on the Role of Judges and Prosecutors of 2014. In 2015, the Ministry began to develop detailed work plans to establish new administrative units within each court, which would allow court presidents to concentrate on their adjudication functions. The staffing levels in the courts were being reinforced to that end. Once they are fully functional, the restructuring is expected to improve the efficiency of the justice system, particularly given that the new units in the largest courts will be equipped with a case management database.

28. The database was developed by the Program on Rights and Justice of the East-West Management Institute, which worked to improve court administration and case management in selected courts. Following the closure of the Program at the end of 2014, OHCHR assumed the task of expanding the database, which had been installed in the Phnom Penh Municipal Court. The database facilitates the retrieval of information on individual cases and of aggregated data used to analyse the general functioning of each court. From March 2015, OHCHR conducted assessment missions, in partnership with the Ministry of Justice, in five courts of first instance selected for their relatively large caseload. At each court, OHCHR installed the database and trained court officials on its use. Following consultations with the Ministry of Justice and UNICEF, OHCHR supported the development of a new component to track child justice data. In 2015, the Ministry of Justice provided a computer and server in the five courts, while UNICEF also contributed an additional computer and scanner for each of the courts to encourage the use of the database. To ensure proper maintenance of the database, a Ministry official is being coached by an information-technology specialist contracted by OHCHR.

29. OHCHR aims at extending the installation of the database to all provincial courts and ultimately to link them nationally, thereby allowing for reliable case management nationwide. It is hoped that lesser reliance on the transfer of paper files and more effective

tracking of the whereabouts of original paper documentation will allow courts to expedite the processing of cases more efficiently. Granting access to final court decisions to other parts of the justice system, particularly the police and prisons, should also help to address blockages in the system that result in excessive or arbitrary detention.

30. The third tool developed by OHCHR relates to the reform of the pretrial detention process. A new pretrial detention form was developed by the Ministry of Justice with the support of OHCHR, and was adopted in January 2014. The form was approved by the Ministry of Justice in January 2014, forwarded to all courts of first instance and, in March 2014, disseminated to judges, prosecutors and lawyers at a national conference supported by OHCHR. When filling out the form, judges are, for the first time, asked to set out their legal reasoning for ordering persons accused of crimes to be held before trial.

31. Approximately one year after the pretrial detention form was approved, OHCHR and the Ministry of Justice decided to assess its degree of use and to determine how to promote it further. They therefore conducted, in the first half of 2015, a survey on the use of the form in 10 selected provincial courts of first instance. The survey, completed in May, revealed that its use was not uniform. Approximately 60 per cent of the judges interviewed responded that they used the new form at least from time to time, while the remaining 40 per cent continued to use the old form. Those that had participated in the conference in March 2014 were more likely to use the form. Activities to promote the form were undertaken in cooperation with the Ministry, including follow-up training for judges, which began in Battambang province in June 2015.

32. In order to enable lawyers to make use of the possibilities of the pretrial detention form, in June 2015, OHCHR organized a briefing, attended by 28 practising lawyers, including 12 women, on the process of requesting the release of accused persons from pretrial detention. The discussions held at the briefing focused on experiences of and insights into combating arbitrary detention pending trial. OHCHR also helped a number of lawyers to strengthen their defence strategies by adopting international human rights standards. As a result, lawyers now increasingly invoke provisions of the International Covenant on Civil and Political Rights (in particular article 14) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in court.

33. To assist women members of the judicial profession to contribute to improving the performance of the justice sector, the Ministry of Justice, OHCHR and UN-Women organized, in November 2014, the first meeting of women judges and prosecutors in Cambodia. The participants discussed the challenges they faced as women in their profession and the substantive points of law on which they shared questions. They decided to establish an informal network for information exchange and mutual support.

34. With a view to improving access to legal aid by individuals whose rights were at risk, OHCHR provided grants to specialized bodies that provide such services. Thus, a grant to the Bar Association of the Kingdom of Cambodia, running from December 2014 to December 2015, was given to provide legal aid in 53 cases officially pending appeal for lengthy periods. The cases, identified by OHCHR and the prison registry officers in Correctional Centres 1 and 2, were found not to be actually pending appeal but rather to have been tried by the Court of Appeal. The cases were, however, treated as such because the verdict had not been shared with the prisons, which denied the defendants access to certain important procedures to which they were entitled at that stage in the judicial process, such as an application for sentence reduction. OHCHR also extended a grant to the non-governmental organization International Bridges to Justice in Cambodia, to allow it to provide legal aid in 222 appeal cases identified by OHCHR in which the rights of the accused appeared not to have been fully respected. As a result of the ongoing partnership among OHCHR, the Court of Appeal and legal aid organizations, the backlog of appeal cases that were pending for more than 10 years was completely cleared in 2014, while the

backlog of appeals pending for more than five years has been considerably reduced, especially in Phnom Penh. Work has also progressed on appeals pending for more than four years. OHCHR, with the cooperation of the relevant judges and prosecutors, was moreover able to secure the release of eight prisoners found to be held in arbitrary detention.

35. OHCHR sought to raise the level of awareness of international norms and standards on the prohibition of torture and ill-treatment by co-organizing 14 briefings, held from January to June 2015, for law enforcement personnel at the provincial and district levels with the offices of the provincial Chief Prosecutor in five north-eastern provinces. At each briefing, visits were conducted to provincial and district police stations, where the processes of police custody and registry were reviewed. The briefings were also held on rights upon arrest and the use of force and policing during demonstrations. In all, approximately 640 participants from the police, gendarmerie and civilian apparatus, including 49 women, participated in these lively discussions, which helped to dispel many common misunderstandings about the issues of torture and ill-treatment, the processes of police custody and registry, rights upon arrest, the use of force and policing during demonstrations.

36. No progress was achieved during the period under review towards the establishment of an independent national preventive mechanism against torture, in accordance with the Optional Protocol to the Convention against Torture, to which Cambodia is a party. Following past advocacy by OHCHR, as well as by the Subcommittee on the Prevention of Torture during its visit in December 2013, the Government of Cambodia acknowledged the shortcomings of the current governmental mechanism, but did not actually commit to establishing an national preventive mechanism compliant with the Optional Protocol. This position was reaffirmed by the Government when, in June 2014, in its response to the recommendations made during from its second universal periodic review, it noted - rather than accepted - nearly all the recommendations pertaining to the mechanism.

37. OHCHR continued to serve as the donor partner facilitator of the Technical Working Group on Legal and Judicial Reform, one of 19 sectoral technical working groups by which the Government and donor partners coordinate international assistance. Following the adoption of the three fundamental laws on the judiciary (the Law on the Statute of Judges and Prosecutors, the Law on the Organization of the Court Organs and the Law on the Organization and Functioning of the Supreme Council of Magistracy) in May 2014, OHCHR worked closely with the Ministry of Justice, which serves as the governmental Chair of the Technical Working Group, to establish joint monitoring indicators on judicial reform that set out quantifiable measures for improvement in certain key areas.

IV. Protecting economic and social rights

38. The Economic and Social Rights Programme of OHCHR in Cambodia continued to focus primarily on land and housing rights issues, with the understanding that adequate housing is a precondition for the enjoyment of many other economic and social rights, including the rights to work, health and education. Through the Programme, OHCHR works to promote and protect the rights to adequate housing and to an adequate standard of living, to prevent forced evictions and to promote security of tenure and a better understanding of the role of business in respecting human rights.

39. The Government's land titling programmes have advanced steadily. According to government figures, as at December 2014, approximately 3,840,000 land titles had been delivered under ongoing processes of systematic land registration (2.62 million titles), sporadic land registration (610,000 titles) and Directive No. 001 campaign (606,661 titles) (see A/HRC/27/43, para. 34). With regard to the number of titles awarded, the Directive No.

001 land titling campaign has achieved remarkable results since 2012. At the end of the period under review, the Government estimated that land titles had been provided for 55 per cent of the country's estimated 7 million parcels of land.

40. At the same time, OHCHR registered forms of adverse impact of the land titling process on indigenous and other communities who claim to have lost land as a result of inconsistent implementation of government policies. During the period under review, OHCHR monitored 70 ongoing and unresolved land disputes among affected communities, authorities and businesses in both rural and urban areas, and six new cases. Of the 70 disputes, 28 were related to economic land concessions and other land concessions granted by the Government, while 42 related to other land transactions. OHCHR activities in this area included field visits, the facilitation of dialogue among the parties in dispute, trial monitoring, and providing communities and civil society organizations with legal and procedural advice.

41. In 18 August 2014, the Government created an interministerial commission to inspect, demarcate and assess economic and concessions, mandated to examine economic land concessions and to revoke contracts where companies failed to comply with the conditions and terms set forth in their contracts. According to government data, as at April 2015, the commission had reviewed 230 concession projects, of which 117 concessions were under the jurisdiction of the Ministry of Agriculture, Forestry and Fisheries and 113 under the jurisdiction of the Ministry of the Environment. The commission revoked 34 concessions, readjusted the boundaries of six, and placed 26 companies under review. Five business enterprises voluntarily returned concession land to the Government. Despite this positive step, access to information and a lack of transparency and accountability in the management of land concessions still posed significant problems. In addition to its monitoring activities, OHCHR continued to provide support for a non-governmental open-data source that posts on one website information on land concessions by province and by company, and includes briefings on relevant thematic issues.

42. OHCHR expanded its focus on business and human rights, working directly with national and subnational authorities, civil society organizations, community representatives and business actors to increase their understanding of the Guiding Principles on Business and Human Rights and their application in Cambodia. In partnership with non-governmental organizations, OHCHR organized and delivered presentations at 12 seminars and consultations, attended by almost 1,000 representatives of government agencies, private businesses, non-governmental organizations and indigenous and other communities throughout Cambodia. OHCHR supported capacity-building activities aimed at improving access of civil society organizations to non-judicial mechanisms for addressing business-related human rights impact at the operational, national and international levels.

43. OHCHR continued to work with the Ministry of Land Management, Urban Construction and Planning, local governments and civil society organizations to support efforts by indigenous peoples to apply for collective land titles, and to provide legal aid to communities who have suffered from land rights violations. As at May 2015, 166 indigenous communities had begun the process of applying for communal land titles, 116 of which had been registered by the Ministry of Rural Development. As at June 2015, only eight communities had been successful in obtaining a communal land title. The application process remains complicated and expensive for those communities that do not receive substantial technical and financial assistance from civil society organizations. The dispute resolution mechanisms in place, including the courts, continued to handle indigenous and other land issues inconsistently, without transparency and with limited accountability. OHCHR contributed to advocacy to protect indigenous peoples' land rights and cultural and linguistic rights with the authorities and through the media.

44. On 11 May 2015, in response to an application for preservative relief, the Court of Appeal recognized for the first time in a Cambodian court the legality and legitimacy of a communal land title and the co-ownership of land by a Phnong indigenous community in Mondulkiri Province, overturning a contrary verdict of the provincial court. OHCHR intends to assist in disseminating this landmark ruling widely, particularly in those provinces with large numbers of indigenous communities.

45. Through the Technical Working Group on Land, which is composed of representatives of the Government, development partners and civil society organizations active in the land sector, OHCHR continued actively to advocate for and to support compliance with international human rights standards in the design and implementation of policies and programmes on land, housing and natural resources.

46. OHCHR continued to contribute to the further development of the legal and policy framework regulating the land sector and the management of natural resources. As mentioned above, it participated in consultations on a bill on environmental impact assessments led by the Ministry of the Environment and provided written advice on the harmonization of the final draft with international human rights standards. A national housing policy that focuses on providing adequate housing and tenure security for poor and middle class families, long advocated for by OHCHR, was finally promulgated in June 2014.

47. OHCHR worked to improve women's participation in public processes and to promote women's rights to land, tenure security, adequate housing and inter-connected economic, social and cultural rights. In November 2014, OHCHR began to distribute a version in Khmer language of the OHCHR publication entitled "Women and the Right to Adequate Housing". In December, OHCHR organized a regional workshop on women human rights defenders working on land-related human rights issues, which convened participants from Cambodia, the Lao People's Democratic Republic, Myanmar, the Philippines and Thailand. Also in December, OHCHR organized, together with UN-Women, a consultation on women's right to adequate housing, attended by female housing rights activists and victims of forced evictions.

V. Supporting prison reform

48. The General Department of Prisons of the Ministry of the Interior is the main partner in the OHCHR Prison Reform Support Programme in Cambodia. Through the Programme, OHCHR aims to support prison reform in accordance with international human rights norms and the State's constitutional guarantees.

49. OHCHR continued to collaborate with core trainers from the General Department of Prisons and the Police Academy of Cambodia to improve the quality of prison staff training. It organized two study visits for core prison staff trainers to five provincial prisons in June 2014 and April 2015. The prisons visited were selected to provide different perspectives to trainers, including from small to medium-sized prisons, with a population of between 250 to 500 prisoners. Through the visits, trainers obtained feedback from prison managers and former trainees on ways to improve future training programmes. In July and August 2014, OHCHR supported the participation of female trainers in the delivery of training to new recruits. In September, it partnered the General Department of Prisons and the Police Academy of Cambodia in organizing a four-day "training of trainers" workshop on a human rights-based approach to prison management. Based on an international handbook on the same subject, previously made available in Khmer by OHCHR, the workshop enabled the 21 trainers to review each chapter of the handbook in small groups to prepare lesson plans and to present them to their peers for feedback and improvement.

which prompted fruitful, substantive discussions. In October, OHCHR co-organized an end-of-year meeting for the joint General Department of Prisons/Police Academy of Cambodia training team to review progress and to plan for 2015.

50. OHCHR continued to promote the right of prisoners to the highest attainable standard of health through advocacy and support for secured hospital rooms for sick prisoners and improved living conditions in prison. With the cooperation of provincial health departments, non-governmental medical organizations and national and provincial prison authorities, secured rooms were prepared with OHCHR support in four referral hospitals, allowing sick prisoners to be treated without being chained or handcuffed.

51. OHCHR provided material support for additional window openings in a provincial prison to improve light and ventilation inside the cells, and to improve access to water and sanitation in three other prisons. It coordinated with partners the provision of supplies to assist with flood prevention and advocated for minimum prison construction standards in two new prisons in north-western provinces.

52. OHCHR and the General Department of Prisons finalized jointly the design of two educational posters on the rights of prisoners and on family visits, which were being printed at the end of the period under review. OHCHR continued to work closely with prison registry officers to review the lists of prisoners whose convictions were pending appeal or who, for any other reason, were not in possession of their final judgements. The Office supported follow-up with the courts and legal aid organizations to obtain such judgements so that those prisoners could be considered for release.

53. At the end of the period under review, 35 per cent of the prison population had been convicted but had not received their final verdict, either because it was pending appeal, the court had not drafted or shared the verdict with the prison, or the court documents had been lost in the system. In parallel to work on the court database (see para. 10 above), OHCHR reached an agreement with the General Department of Prisons to support efforts to improve the nationwide management of its prisoner files through the prison database, and thereby to reduce excessive pretrial detention, detention pending appeal or detention past the time of release. The current prison database lacks features that would allow the Department clearly to monitor time limits and the legality of detention. An information technology expert has been contracted by OHCHR to review the database, to design the necessary modules and functions, and to install and train registry staff in all prisons in Cambodia in the course of upcoming months.

54. OHCHR continued to monitor prisons and to intervene with the relevant authorities for remedial action in cases of human rights violations, including ill-treatment or excessive detention. It also continued to analyse the statistics on the prison population, disaggregated by gender and age, to support policy discussions.

VI. Emerging issues: asylum seekers

55. Since October 2014, small groups of ethnic Jarai Montagnards[6] have been crossing over into the Cambodian province of Ratanakkiri from Viet Nam. Following a considerable

[6] The term "Montagnards" is a loose designation of some 30 tribes of "mountain people" in the central highlands of Viet Nam, composed of six distinct ethnic groups, including the Jarai. The area inhabited by the Jarai straddles Cambodia and Viet Nam; the Jarai on the Cambodian side are concentrated in the province of Ratanakkiri.

number of discussions, the Refugee Department of the Ministry of the Interior,[7] OHCHR and the Office of the United Nations High Commissioner for Refugees (UNHCR) retrieved, through a joint mission in December 2014, 13 Montagnards who had been hiding in the forests of Ratanakkiri. They were brought to the premises of the Refugee Department in Phnom Penh, where they were duly registered as asylum seekers. Their cases were examined in due course, after which they were granted refugee status by the Government in March 2015.

56. More small groups of Montagnards – mostly ethnic Jarai and a small number of ethnic Ede – have continued to cross over since January 2015. In January and February, the Ratanakkiri authorities deported 54 Montagnards, which led OHCHR and others to express concerns about refoulement, a measure that violates the Convention relating to the Status of Refugees to which Cambodia is a party. In April 2015, the border police in Ratanakkiri were reportedly reinforced by hundreds of soldiers to prevent further crossings of Montagnard asylum seekers into Cambodia. As at July 2015, the number of Montagnards who had reached Phnom Penh numbered more than 150, all of whom presented themselves to OHCHR or UNHCR, which systematically notified the Refugee Department for registration; registration was denied in every case. In addition, more than 100 Vietnamese Montagnards have crossed into Thailand to seek asylum from UNHCR, which is responsible for determining refugee status in Thailand.

57. In March 2015, representatives of UNHCR and the Governments of Cambodia and Viet Nam met to discuss the situation of the Montagnards. UNHCR was invited by Viet Nam to visit the Central Highlands to assess the situation there. A visit was conducted from 13 to 17 May 2015.

58. In September 2014, Cambodia signed a refugee relocation agreement with Australia whereby Cambodia would receive and settle refugees from Nauru. The first four refugees from Nauru arrived on 4 June 2015. The reception of the refugees provides an opportunity to reaffirm the procedure by which due process will be ensured and assistance provided to the entire refugee and asylum-seeker population in Cambodia, including the Montagnards. OHCHR and UNHCR have consistently advocated that all asylum seekers should be registered and accorded an individual assessment of their claims, in conformity with the State's obligations under the Convention relating to the Status of Refugees. Those recognized as refugees should be settled and provided with the assistance that such status entails.

VII. Public information

59. In December 2014, OHCHR, in partnership with the Cambodian Center for Independent Media, launched a series of monthly radio programmes in Khmer in order to raise awareness and understanding about fundamental freedoms and issues relating to business and human rights. The aim of the initiative was to reach wide segments of the general population, particularly in the more remote areas of the country, to highlight key human rights issues and provide information on the mechanisms to address them. To date, representatives of the Ministry of Mines and Energy, the Ministry of Economy and Finance, the Ministry of Information, the governmental Cambodian Human Rights Committee, the

[7] The Refugee Office was established in 2009 under Sub decree 224, in accordance with which the Cambodian Government took over from UNHCR the responsibility to conduct refugee status determination and assumed its full obligations as a party to the 1951 Refugee Convention. In May 2014, it became the Refugee Department under the newly instated Department of Immigration.

Commission on Human Rights, Complaints and Investigation of the National Assembly, the Special Rapporteur on the situation of human rights in Cambodia and leading civil society representatives have participated in debates on various issues.

60. During the period under review, the dissemination of publications and other information materials by OHCHR increased in both English and Khmer. OHCHR Cambodia printed more than 40 titles in the two languages, including several OHCHR core publications in Khmer, such as the Civil Society Handbook and the Handbook for Parliamentarians. Its expanding work on business and human rights was supported by the publication of a Khmer/English version of a United Nations interpretive guide entitled "The Corporate Responsibility to Respect Human Rights", which the Office distributed to various chambers of commerce and businesses. OHCHR also distributed approximately 5,000 copies in Khmer and English of the Guiding Principles on Business and Human Rights, and 2,000 copies of the OHCHR picture book entitled "Protect, Respect, Remedy: A Guide on Business and Human Rights". OHCHR had translated in Khmer and disseminated the concluding observations of the Human Rights Committee adopted in March 2015 (CCPR/C/KHM/CO/2). It also produced and disseminated a thematically organized table of recommendations on Cambodia made by all international human rights mechanisms to facilitate their implementation.

61. OHCHR translated into Khmer four general comments of human rights treaty bodies: general comment No. 35 of the Human Rights Committee on liberty and security of person (CCPR/C/GC/35); general comments Nos. 1 and 2 of the Committee on the Rights of Persons with Disabilities on equal recognition before the law (CRPD/C/GC/1) and on accessibility (CRPD/C/GC/2); and general comment No. 2 of the Committee against Torture on the implementation of article 2 of the Convention against Torture by State parties (CAT/C/GC/2). To date, OHCHR has distributed more than 200,000 copies of publications and other information materials to government institutions, students, law professionals, journalists, United Nations entities, partner non-governmental organizations and the general public.

62. OHCHR continued its popular practice of opening its doors to the general public one day a week for members of the general public, who are thus given access to human rights materials of interest.

63. The Office commemorated key international days, including the 16 days of activism on violence against women, Human Rights Day, World Press Freedom Day (with UNESCO) and the International Day against Homophobia and Transphobia (with the Joint United Nations Programme on HIV/AIDS (UNAIDS) and UN-Women). OHCHR organized or participated in commemoration events, distributed promotional and informational material and contributed opinion pieces to increase awareness. On Human Rights Day 2014, OHCHR contributed to numerous activities organized by local and national authorities, development partners and civil society organizations, and organized an online quiz competition on human rights issues.

64. OHCHR maintains a bilingual website, which continues to be the only United Nations Internet presence in Khmer. The new dynamic website, completed during the period under review, is scheduled to be launched in July 2015. In addition, OHCHR strengthened its use of social media channels for information dissemination and developed a short film on its role and achievements in Cambodia.

VIII. Supporting engagement with the international mechanisms

65. Following the twenty-sixth session of the Human Rights Council, in June 2014, when the Government presented its final position on universal periodic review

recommendations. OHCHR supported the governmental Cambodia Human Rights Committee in translating and publishing the report of the Working Group on the Universal Periodic Review (A/HRC/26/16). In November, the Committee and OHCHR convened a national workshop to disseminate the universal periodic review recommendations among relevant entities, including the Parliament, the United Nations country team, development partners and non-governmental organizations. During the workshop, the Committee led a process whereby specific government entities were identified for the implementation of each universal periodic review recommendation accepted by the Government. OHCHR finalized and published in English and Khmer a compilation of the recommendations accepted by Cambodia at the first and second cycles of the universal periodic review, aligning them with all relevant recommendations made by human rights treaty bodies and the Special Rapporteur on the situation of human rights in Cambodia as at July 2014. The compilation was circulated to government partners, United Nations entities and civil society organizations. In May 2015, OHCHR and the Cambodia Human Rights Action Committee, an umbrella non-governmental organization, co-organized a national workshop on the implementation of universal periodic review recommendations.

66. In January 2015, OHCHR supported the final visit by the outgoing Special Rapporteur on the situation of human rights in Cambodia, Surya P. Subedi. The Special Rapporteur focused on assessing the progress made in strengthening the independence of State institutions, with particular reference to legal and judicial reform.

67. During the period under review, OHCHR continued to promote the ratification of the International Convention on the Rights of All Migrant Workers and Members of Their Families, which the Government had agreed, in principle, to ratify at its second universal periodic review, in 2014. In March 2015, OHCHR and UN-Women co-organized a stakeholders' workshop with the Ministry of Labour and Vocational Training. Participants included recruitment agencies and civil society organizations working with Cambodian migrant workers. A working group, composed of representatives of the Ministry of Labour, immigration police from the Ministry of the Interior, the Ministry of Foreign Affairs and International Cooperation, the Ministry of Women's Affairs, UN-Women and OHCHR, met three times in May and June 2015 to review the challenges that might arise after the ratification of the Convention, and to examine domestic legislation and international human rights treaties binding on Cambodia that support ratification. This work will continue in the second half of 2015.

68. The implementation by Cambodia of the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict was reviewed by the Committee on the Rights of the Child in January 2015. The State's implementation of the International Covenant on Civil and Political Rights was reviewed in March, in preparation for which OHCHR delivered a number of training activities for groups of stakeholders. As mentioned above, several new publications translated and published in 2015 by OHCHR are products of the treaty bodies, in particular four general comments of particular relevance to Cambodia.

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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Technical assistance and capacity-building

Situation of human rights in Yemen

Report of the United Nations High Commissioner for Human Rights*

Summary

In the present report, the United Nations High Commissioner for Human Rights makes an updated assessment of the overall situation of human rights in Yemen from 1 July 2014 to 30 June 2015, in the context of the deterioration in the security situation since September 2014. The report describes both alleged violations and abuses of international human rights law and alleged violations of international humanitarian law by parties to the conflict. The High Commissioner concludes the report with recommendations, including some contained in previous reports of the High Commissioner on the situation in Yemen.

* Late submission

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I. Introduction

1. The present report, submitted to the Human Rights Council pursuant to its resolution 27/19, is the report of the United Nations High Commissioner for Human Rights, covers the period from 1 July 2014 to 30 June 2015, particularly in the context of the deterioration in the security situation in Yemen since September 2014.

2. During the period under review, the increasing level of insecurity in Yemen severely hampered the capacity of the Country Office of the Office of the High Commissioner (OHCHR) in Yemen to implement effectively its overall mandate, namely, that of monitoring allegations of violations of international humanitarian law and violations and abuses of international human rights law, and also of undertaking a wide range of human rights activities, including capacity-building for national stakeholders. Notwithstanding the afore-mentioned challenges, the present report is primarily based on human rights monitoring carried out by OHCHR in Yemen and includes information provided by other United Nations entities operating in Yemen. Unless specifically stated, all reports of violations and abuses have been verified or cross-checked with a number of independent and credible sources.

II. Background

A. Political developments and security situation

3. During the period under review, Yemen was afflicted by increasing tensions that seriously compromised progress in a range of political and human rights developments. On 8 March 2014, presidential decrees No. 26/2014 and 27/2014 established a constitutional drafting commission and named its 17 members, including four women. The decrees provided that the drafting of the Constitution would be followed by public consultations and a referendum within one year. That process was interrupted when violent outbreaks increased in September 2014, with an immediate impact on the security situation in Sana'a and several main cities in the country.

4. Tensions began to grow in June and July 2014, when an armed offensive was launched in Amran Governorate by members of the Popular Committees, affiliated with the Houthi movement,[1] led by Abdel Malik al-Houthi, in conjunction with deserters from the Yemeni Armed Forces and tribesmen loyal to former President Ali Abdullah Saleh,[2] against troops from the 310th Armoured Brigade of the Yemeni Army, led by Brigadier General Hamid Mohammed al-Qushaibi, as well as armed groups affiliated with the Islah party[3] that are also in conflict with the Houthis. Those clashes reportedly resulted in at least 204 casualties and the displacement of tens of thousands of people in June and July 2014 alone.

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[1] The Houthis, also known as Ansar Allah, is a movement based on the Zaidi doctrine, and followers of the late Hussein al-Houthi, who was killed by the Yemeni Armed Forces in September 2004. The Houthis are known to have a large presence in the northern Governorate of Sa'ada.

[2] Ali Abdullah Saleh was the president of Yemen from 1990 until 2012, and previously served as President of North Yemen from 1978 until unification with South Yemen in 1990. In November 2011, following widespread protests against his Government, Saleh signed an agreement prepared by the Gulf Cooperation Council whereby he agreed to transfer power to the then Vice-President, Abd Rabbo Mansour Hadi, in exchange for immunity from criminal prosecution.

[3] The Islah is the name commonly used to refer to the Yemeni Congregation for Reform, a Yemeni political party established in 1990 and believed to be affiliated with the Muslim Brotherhood.

5. On 9 July 2014, the Popular Committees attacked and took over Amran city (Amran Governorate), north of Sana'a. The day before, Brigadier General Al-Qushaibi was killed in clashes between the Popular Committees and the 310th Armoured Brigade. The circumstances of his death remain unclear. Although allegations were made that Al-Qushaibi had been detained then executed, OHCHR was unable to verify them. The arsenal in possession of the 310th Armoured Brigade fell into the control of the Popular Committees. Their takeover of Amran aggravated the vulnerability of the capital and of the sitting Government.

6. On 18 August 2014, tens of thousands of pro-Houthi demonstrators took to the streets in Sana'a and several other cities to protest against the Government, blaming President Abd Rabbo Mansour Hadi for failing to carry out the reforms promised. Abdel Malik al-Houthi called upon President Hadi to dissolve the Government and reinstate fuel subsidies, which had been abolished on 30 July 2014, resulting in a net increase in the cost of fuel and other goods. Following the first day of demonstrations, members of the Popular Committees began arriving in Sana'a, establishing protest camps in different locations within the city, including nearby several ministries. Counter demonstrations by pro-Government supporters were held in Sana'a throughout the following month, some of which degenerated into violent clashes between opponents.

7. On 29 August 2014, the Security Council adopted a statement by the President of the Council, expressing grave concern about the deterioration of the security situation in Yemen, and recalling that individuals or entities threatening the country's peace, security or stability could be subject to targeted sanctions (S/PRST/2014/18).

8. On 2 September 2014, President Hadi dismissed his cabinet and called upon the Houthi leadership to participate in a new government. He also agreed to partially reinstate fuel subsidies. The Houthis rejected the proposal and threatened to escalate their protests. In the weeks that followed, fighting escalated in Al-Jawf Governorate between Houthis and armed groups affiliated with the Islah party.

9. Fighting also broke out in Sana'a between supporters of the Houthis and government forces as the Popular Committees launched an offensive on the city. OHCHR was informed by witnesses that, between 18 and 21 September 2014, a total of 22 State buildings and the premises of civil society organizations were seized and occupied by members of the Popular Committees across Sana'a.

10. On 21 September 2014, President Hadi, together with Houthi delegates and major political parties, signed the Peace and National Partnership Agreement to stop the fighting. The Agreement called for a new, technocratic government to be established within one month and for the reduction of fuel prices by 25 per cent. It also stipulated that President Hadi should appoint two advisers from the Houthis and Al-Hirak,[4] and a new Prime Minister within the first three days of the signing. On the following day, Houthi forces attacked and seized the headquarters of the Sixth Regional Military Command (previously known as the First Armoured Division) in Sana'a. At around the same time, Al-Hirak renewed calls for independence and, on 14 October 2014, staged a demonstration with tens of thousands of people in Aden in support of secession. Over the following weeks, pro-independence rallies continued in a number of cities, principally in Aden.

11. On 7 November 2014, pursuant to Security Council resolution 2140 (2014), in which the Council established a panel of experts to investigate those who engaged in or

[4] Al Hirak ("the Southern Movement") is a political movement operating in the territory of what was formerly South Yemen before it unified with the Republic of Yemen in 1994. The movement calls for the independence of the South from the Republic of Yemen.

provided support for acts that threatened the peace, security or stability of Yemen, the Security Council Committee established pursuant to resolution 2140 (2014) (2140 Sanctions Committee) designated three individuals as the subject of an assets freeze and travel bans: Abd al-Khaliq al-Houthi and Abdullah Yahya al-Hakim, Houthi military commanders; and Ali Abdullah Saleh, President of Yemen's General People's Congress party and former President of Yemen.

12. On 7 January 2015, the Constitutional Drafting Committee submitted the draft Constitution to President Hadi. On 17 January 2015, Ahmed Awad bin Mubarak, Chief of Staff of President Hadi and Secretary-General of the National Dialogue Conference, was abducted by the Popular Committees while travelling to a meeting organized by the national body to approve the draft Constitution. The draft was eventually endorsed by 16 of the 17 members of the Constitutional Drafting Committee. The Houthis were opposed to the draft, in particular the division of the country into six administrative regions. On 18 January, President Hadi ordered the security forces to restore government control over Sana'a, large sections of which had been seized by the Popular Committees, affiliated with the Houthis, since September 2014. On 19 January 2015, fighting broke out in Sana'a between Houthi forces and members of the presidential guards. On the following day, the Houthis seized the presidential palace and the residence of President Hadi, who was then placed under house arrest, together with other senior officials.

13. On 21 January 2015, President Hadi and the Houthis announced a 10-point agreement, including provisions to revise the draft Constitution and to allow the Houthis to appoint new members to the Government. On 22 January, President Hadi, Prime Minister Khaled Bahah and the entire Cabinet resigned. On 25 January, the Parliament was scheduled to consider the resignation but its session was postponed; as at July 2015, it had not reconvened. On 21 February 2015, President Hadi escaped to Aden, announcing that he intended to continue to exercise his presidential functions. Meanwhile, the Prime Minister and key ministers remained under house arrest by the Popular Committees affiliated with the Houthis. On 19 March, the presidential palace in Aden came under aerial attack, allegedly by pro-Houthi members of the Yemeni Air Forces. President Hadi fled to Saudi Arabia on 25 March.

14. On 24 March 2015, President Hadi requested the Gulf Cooperation Council and the League of Arab States to intervene militarily, citing Article 51 of the Charter of the United Nations (S/2015/217). On 25 March, a number of States members of the Gulf Cooperation Council and the League of Arab States, led by Saudi Arabia, formed a coalition to initiate military action alongside other countries against the Houthis, in response to President Hadi's request. On 26 March, coalition forces[5] launched an aerial military campaign against Houthi military targets in Yemen. The Government of the United States of America announced that it would provide logistical and intelligence support for the coalition. In addition to air strikes, coalition naval forces imposed a blockade on the ports of Aden and Al-Hudaydah.

15. On 15 April 2015, the Special Adviser to the Secretary-General on Yemen, Jamal Benomar, announced his resignation. Ismail Oud al-Cheikh Ahmed was appointed as the new Special Envoy of the Secretary-General for Yemen on 25 April.

[5] The coalition consists of all the States members of the Gulf Cooperation Countries (with the exception of Oman), as well as Egypt, Jordan, Morocco and the Sudan.

B. Humanitarian situation

16. The humanitarian situation began to deteriorate following the Houthi takeover of the capital and other cities, beginning in September 2014. The armed conflict began to escalate on 26 March 2015, when the coalition forces commenced its aerial strikes and imposed a naval blockade on the main seaports in Yemen. This dramatically worsened an already dire humanitarian situation, particularly in the worst affected areas, such as Sa'ada, Hajjah, Taizz, Al-Dhale'e, Aden and Lahj. As at June 2015, the humanitarian country team estimated that 20.4 million people required humanitarian assistance in Yemen, in particular water, protection, food and health care.[6]

17. Yemen essentially depends on commercial food and fuel imports to meet the basic needs of the population. More than 90 per cent of food is imported. At the end of the period under review, approximately 12.3 million people – about half the country's population – suffered to some degree from food insecurity. Furthermore, as much as 80 per cent of the population relies on some form of assistance to maintain access to safe drinking water and sanitation.[7] Severe import restrictions, caused mainly by the naval blockade imposed by the coalition forces during the conflict, have also aggravated the humanitarian situation, resulting in fuel scarcity, which adversely affects the distribution of food and water, as well as the functionality of hospitals.

18. Given that all domestic fuel refineries were forced to stop operating by to the security situation, the country was heavily dependent on imported fuel.[8] In April and May 2015, fuel imports were equivalent to only 1 per cent and 18 per cent respectively of the total estimated fuel needs.

19. The humanitarian country team estimated that, as at June 2015, some 15.1 million people required assistance to obtain basic health care. Some 1.5 million women and children were in need of nutrition supplies, and 2.9 million children required emergency access to education. About 1.2 million people (1 million internally displaced persons and 200,000 vulnerable host communities) required support for access to emergency shelter and essential goods. Moreover, the humanitarian country team reported more 7,000 cases of dengue fever since March 2015.[9]

C. International legal framework

20. Yemen is a party to seven of the nine core international human rights treaties and to the two Optional Protocols to the Convention on the Rights of the Child. Despite approval by the Cabinet, the Parliament has yet to approve the ratification of a number of human rights instruments, namely, the International Convention for the Protection of All Persons from Enforced Disappearance, the Rome Statute of the International Criminal Court, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

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[6] Office for the Coordination of Humanitarian Affairs, Yemen Humanitarian Response Plan, 19 June 2015.

[7] Ibid.

[8] Office for the Coordination of Humanitarian Affairs, Reliefweb, "Yemen: Reduced Imports Worsen Crisis", 23 June 2015.

[9] Office for the Coordination of Humanitarian Affairs, Yemen Humanitarian Response Plan, 19 June 2015.

21. Yemen is a party to all four Geneva Conventions of 12 August 1949 and to Additional Protocols I and II thereto, and to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects.

22. Yemen is also bound by customary international law, including customary international humanitarian law and customary international human rights law.

23. As a State party to the above-mentioned conventions, Yemen is legally bound to respect, protect and fulfil the human rights of those within its jurisdiction. In addition, all parties to the conflict in Yemen, including Saudi Arabia and other members of the coalition, are obliged to respect the applicable rules of international humanitarian law. These include the obligations to respect the principles of distinction and proportionality, and to take all feasible precautions to protect the civilian population. Civilians and civilian objectives are protected from attack. Hospitals, schools and religious sites are also subject to heightened protections, and attacks on them have an impact on peoples' enjoyment of their rights, including to health, education and freedom of religion. Parties to the conflict must also allow and facilitate rapid and unimpeded passage of impartial humanitarian relief for civilians in need. It is important to recall that a situation of armed conflict does not exempt any State from its human rights obligations.

24. While non-State actors cannot formally become parties to international human rights treaties, non-State actors that exercise government-like functions and de facto control over a territory are increasingly considered to be bound by international human rights obligations when their conduct affects the human rights of the individuals under their control.

III. Situation of human rights

A. Conduct of hostilities

25. For years, Yemen has been torn by conflicts between different political and ideological forces. The current conflict between the Government of Yemen and the armed groups has polarized the country in an unprecedented manner. The subsequent intervention of the coalition forces intensified hostilities.

26. The information reported below was gathered by OHCHR in Yemen, which has continued to monitor the situation closely despite the security-related challenges, and while having to relocate its international staff members to Amman intermittently since May 2014. The stringent security restrictions and the intensification of the conflict have required serious limitations to access to the areas where people have been most affected by the violence. As a result, OHCHR was unable to verify the vast majority of allegations of human rights violations and abuses or violations of humanitarian law that had been reported in relation to the ongoing conflict. The information below highlights examples of allegations of attacks that were documented by OHCHR in Yemen throughout the period under review.

27. In September 2014, the armed confrontation spread to Sana'a, resulting in further casualties. According to the Ministry of Public Health, a total of 274 people, including civilians, were killed as a result of fighting between Yemeni Armed Forces and the Popular Committees between 17 and 21 September 2014.

28. According to information received by OHCHR, 1,527 civilians were killed and 3,548 injured between 26 March and 30 June 2015 as a result of the conflict, including by air strikes. Of the casualties, at least 941 civilians were killed and 2,295 injured by coalition

air strikes, while 508 civilians were killed and 954 injured by joint operations led by the Popular Committees and military forces loyal to former President Saleh in ground battles. Furthermore, 54 civilians were killed and 234 injured as a result of other armed confrontations between parties to the conflict, while at least 24 civilians were killed and 65 injured in attacks claimed by Al-Qaida in the Arabian Peninsula,[10] mainly in Sana'a, Aden and Taizz.

29. OHCHR received reports that at least 310 civilian infrastructures were partially or completely destroyed by coalition air strikes and ground fighting throughout the country from 26 March to 30 June 2015. They included 160 private homes and 150 civilian public infrastructures that were partially or completely destroyed by the armed conflict. Of the civilian public infrastructures, 95 civilian public buildings were affected by coalition air strikes while 48 were damaged by shelling attributed to the Popular Committees. In addition, four civilian public buildings were partially or completely destroyed by the local armed groups opposing the Houthis as a result of armed clashes between the two opponent groups. Lastly, at least three civilian public buildings were partially or completely destroyed as result of attacks claimed by Al-Qaida in the Arabian Peninsula.

30. According to information received, at least 15 heritage sites, including the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Site of Old Sana'a and the Seera Castle in Aden were damaged by the armed conflict between 26 March and 30 June 2015. Sites were damaged by included air strikes, rocket attacks, artillery shelling and ground fighting. Sites were also used for military advantage by members of the Popular Committees and military units loyal to former President Saleh.

31. In addition, according to information available to OHCHR, 53 health facilities were damaged or affected, and 96 schools were damaged, while 67 were used by armed groups in the 18 governorates affected.[11]

32. According to satellite imagery acquired by the United Nations Institute for Training and Research Operational Satellite Applications Programme (UNITAR-UNOSAT) on 7 January and 17 May 2015, a total of 1,171 structures had been affected by the conflict: approximately 273 structures had been destroyed, 271 were severely damaged and 627 moderately damaged. In addition, 35 impact craters were found within the city, the majority of which were located along the runway of Sadah City Airport. Four medical facilities were identified within 100 metres of damaged and destroyed buildings; it is possible that they also sustained some damage. This is a preliminary analysis and has not yet been verified in the field by OHCHR. Data will be cross-referenced and verified with the figures collected above in due course.

1. Allegations of violations and abuses by the Popular Committees and forces loyal to Ali Abdullah Saleh

33. OHCHR received reports that the Popular Committees affiliated with the Houthis launched attacks that damaged public schools, mosques and Koranic schools. For example,

[10] Al-Qaida in the Arabian Peninsula, the Yemeni chapter of Al-Qaida, is the result of the union of the Saudi and Yemeni branches of Al-Qaida in January 2009. Its stated objectives include the overthrow of the regime in Sana'a, and to kill Western nationals and their allies, including members of the Saudi royal family. The group has been in conflict with the Government of Yemen since its establishment. The Houthi advance has resulted in violent clashes with its fighters and has emboldened Al-Qaida in the Arabian Peninsula in its quest to expand their control and recruit fighters from Sunni tribes, claiming that the Houthis are Shia forces supported by the Islamic Republic of Iran.

[11] Office for the Coordination of Humanitarian Affairs, 2015 Yemen Humanitarian Needs Overview 23 June 2015.

according to witness accounts, the Popular Committees reportedly launched an attack in early July 2014 that resulted in, inter alia, the destruction of a school in Beit al-Fakih and the Dar al-Quran Mosque in Amran city. On 11 July 2014, the Al-Salam mosque was reportedly occupied by the Popular Committees during the Friday sermon.

34. OHCHR received reports that, on 21 February 2015, in Lahj Governorate, three civilians were killed as a result of shelling from the Anad Military Base, which is controlled by forces loyal to former President Ali Abdullah Saleh. OHCHR interviewed witnesses but was unable to verify the presence of any military targets that would justify these attacks.

35. On 31 March 2015, at least 20 employees at a cement factory in Lahj were killed and 36 others injured as a result of shelling from Al-Anad military base. The base was under the control of the Houthi and Saleh armed groups when the attack took place. Vehicles and buildings were also destroyed. OHCHR documented structural damage to three hospitals and 13 educational institutions in Al-Dhali Governorate as a result of intense indiscriminate shelling, from 25 to 27 March, targeting residential areas by the 33rd Armoured Brigade loyal to former President Saleh. According to information received by OHCHR, the hospitals affected included Al-Nasr Hospital (operated by Medecins sans Frontières) in Qasha', Al-Salamah Hospital and Al-Dhali Hospital. Educational institutions damaged by shelling include Al-Jumrok Faculty of Education, the Tadhamon Faculty of Education and the Al-Dhali Community College.

36. On 10 April 2015, two civilians were killed and five others were injured as a result of shelling allegedly by members of the Popular Committees. The shelling hit the Al-Salam Area, Khormaksar District, Aden. All seven victims were inside their homes, which were destroyed by the shelling launched during violent clashes near the Badr military base.

37. On 22 April 2015, in one incident in Crater District, in Aden, a child was shot in the head and killed, and a man and a woman from the same family injured as a result of what was apparently a sniper attack launched from the Al-Yafai building in the Al-Qate'e area. It is believed that the area was controlled by the Popular Committees.

38. On 6 May 2015, a civilian was shot in the head and killed, allegedly by a sniper on the roof of the Education College building in Al-Humaira village, Al-Dhali, under the control of the Popular Committees affiliated with the Houthis.

39. On 16 May 2015, in Al-Mesrakh city (Taizz Governorate), eight civilians, including four children and three women, were killed and two women and a child were wounded as a result of artillery shelling reportedly launched from the position of the 22nd Armoured Brigade, affiliated with the Popular Committees.

40. On 30 May 2015, in Sanah district (Al-Dhali Governorate), two civilians were killed, including a woman, while 12 others were injured, including three children, as a result of artillery shelling apparently launched from the area of the Al-Menshar military location in Khobar. The attack was reportedly launched by members of the Popular Committees and the 33rd Armoured Brigade loyal to former President Saleh. OHCHR received reports that members of the Popular Committees and the 33rd Armoured Division loyal to former President Saleh were shelling the villages of Khobar, Al-Kabeh, Al-Rebat, Lakmaht Salah and Jouss Al-Jamal. The number of civilian casualties could therefore be even higher.

41. On 9 June 2015, in the area of Sanah, Al-Dhali, seven civilians were killed, including four children, and nine others, including a child, were injured as a result of shelling by the 33rd Armoured Brigade loyal to former President Saleh. In the same incident, 13 private houses were moderately or severely damaged.

42. On 11 June 2015, a child was reportedly killed after sustaining a gunshot wound to the arm. Family members who witnessed the incident and interviewed by OHCHR reported

that the child was standing next to his mother queuing to purchase ice in Souq Al-Taweel Market Area, Crater District, Aden. The shooting reportedly came from the direction of a position held by combatants of the Popular Committees. On 12 June, nine civilians were killed in Al-Mansourah, in Aden following artillery shelling reportedly carried out by members of the Popular Committees.

43. Since the escalation of the conflict in Yemen on 26 March, OHCHR has documented the killing of at least 18 civilians as a result of apparent sniper attacks in Aden, Al-Dhali and Taizz.

2. Allegations of violations committed by coalition and joint government forces

44. Information gathered by OHCHR indicated that, on 30 March 2015, the coalition forces launched a number of air strikes that hit the al-Mazraq camp for internally displaced persons in Harad.[12] At least 19 civilians were reportedly killed and 35 others injured, including 11 children. The camp, which shelters some 4,000 people, was established by the United Nations in 2009 and, at the time of the attack, hosted at least 300 families recently displaced from Sa'ada. Information provided to OHCHR did not identify the presence of any military objectives in the area.

45. At least 20 civilians were killed and 59 others injured when a dairy factory was directly hit in four air strikes in Hudaydah city (Al Hudaydah Governorate), on 31 March 2015. The people killed inside the factory were personnel. On 12 May, at least 43 civilians, including eight women and 12 children, were killed, while an additional 135 were injured as a result of four air strikes that directly hit the Al-Wajeeh building located in a busy commercial hub in Zabeed (Al-Hudaydah Governorate). The majority of the casualties belonged to Al-Muhamasheen community. The information received by OHCHR did not clarify whether the building was deliberately targeted.

46. On 20 April 2015, at least 87 civilians were killed, including six children and two women, and at least 647 others injured as a result of airstrikes that appeared to be directed at the Faj Attan military base in Sana'a. Hundreds of homes and private businesses in the vicinity of the base (as far as Al-Tahrir Square) were damaged.

47. On 21 April 2015, 40 civilians were killed, including seven children, and 70 civilians were injured as a result of air strikes that hit the Al-Dhaleel bridge (Ibb Governorate). Reports indicated that the connection bridge between Ibb and the main route to Sana'a Governorate was hit twice by air strikes, causing a large number of civilian casualties. People were arriving to assist those injured by the first explosion when missiles were launched in a second round of air strikes.

48. OHCHR received reports alleging that, in late April 2015 in Sa'ada Governorate, cluster munitions were used by the coalition forces in several air strikes, which resulted in at least six civilian casualties, including children. Owing to the continuing airstrikes, OHCHR was unable to collect any further information.

49. On 5 May 2015, fighters from the Popular Committees from the Bakil al-Meer tribe (in Hajjah) attacked areas of Najran city, including what appeared to be civilian objects, and also reportedly attacked Saudi border guard posts. In retaliation, on 8 May, coalition forces announced a military operation against Sa'ada, warning civilians to stay away from what they said were Houthi locations and crowds. In particular, the coalition forces declared the cities of Marran and Sa'ada military zones. According to Saudi State television

[12] OHCHR, "Yemen: The world must be prepared for rapid collapse into mass displacement crisis – UN expert", 8 April 2015.

channel Al-Ekhbariya, flyers announcing the operation were released over Old Sa'ada. According to information received by OHCHR, the limited availability of fuel, the particularly challenging terrain, and barely operational telecommunications services prevented tens of thousands of civilians from complying with the ultimatum launched by the coalition.

50. Despite the obstacles, thousands of inhabitants fled from Sa'ada to the neighbouring governorates of Amran and Hajjah, while at least 15,984 were internally displaced within Sa'ada. Although OHCHR was unable to obtain detailed information on affected cities and resulting casualties, it was informed that coalition air strikes hit at least six residential homes and five markets in Sa'ada, reportedly with no evidence of Houthi military deployment.

51. On 6 May 2015, 15 civilians were killed, including four children and three women from the same family, when two homes collapsed while the families were inside. The homes were hit by two air strikes in Al-Dhaid, Sa'ada.

52. OHCHR gathered information indicating that, on 7 June 2015, coalition forces conducted air strikes against an area hosting a high concentration of internally displaced persons in Duaij village (Hajjah Governorate), allegedly killing four civilians, including three women, and injuring 41 civilians, including 12 women and 16 children. Four makeshift homes for displaced persons were allegedly destroyed in that incident. On 14 June, a family of 10, including four women and two children, were allegedly killed in Al-Hamza as a result of an air strike by coalition forces that struck their vehicle travelling from Al-Jawf to Sana'a.

53. OHCHR documented allegations that, on 17 June 2015, two buses transporting displaced families were hit by air strikes conducted by coalition forces in Al-Alam (Abyan Governorate). It found that 17 civilians had been killed in the incident, including five women and five children, while 10 others, including two women and three children, had been injured. The victims were reportedly fleeing the violence from Al-Mansoura district (Aden Governorate), and were on their way to Hadramout.

3. Armed drones

54. OHCHR was informed of reports of drone strikes in parts of the country with allegations of civilian casualties. The attacks are believed to have been conducted by joint forces of the United States of America and Yemen as part of a campaign against Al-Qaida in the Arabian Peninsula. OHCHR received reliable information indicating that as many as 40 civilians, including a child, may have been killed during the period under review as a result of drone attacks in Al-Baida, Al-Jawf, Marib and Shabwah. According to a Yemeni non-governmental organization, a one-year-old boy and two adults were killed on 26 January 2015 after a Yemeni Air Force drone struck a vehicle at Huraib (in Marib Governorate). The victims were in a car reportedly suspected of transporting members of Al-Qaida in the Arabian Peninsula. No official investigation had been conducted at the end of the period under review.

B. Arbitrary detention, allegations of torture and other ill-treatment and prison conditions

55. Despite Cabinet decision No. 180 (2012) to release all those detained in relation to their participation in the uprising 2011 against the former Government of Yemen, 16

individuals continued to be held in pretrial detention in connection with the events. No charges were brought against them nor were they tried during the period under review.[13]

56. OHCHR received reports indicating that at least 124 people, many believed to be civilians, were detained by the Popular Committees between 3 and 21 November 2014 in unrecognized places of detention, including the Amran Sport Stadium and in private homes throughout Amran Governorate. The circumstances of detention are not known, given that OHCHR was denied access to the detainees.

57. On 7 December 2014, OHCHR was informed by representatives of the Governorate of Amran that about 250 men had been detained by members of the Popular Committees at the Amran sports stadium. According to OHCHR sources, the majority of the detainees were eventually released, with the exception of 18 individuals, who were still in detention at the end of the period under review. The circumstances of detention remain unknown.

58. From 19 January to 19 February 2015, OHCHR documented 145 cases of persons detained by the Popular Committees. Most cases involved detention of anti-Houthi protestors. Witnesses informed OHCHR that they had been held between one and seven days in former government prisons that had been taken over by the Popular Committees in Sana'a, Houdaida, Ibb and Hajjah. Some alleged having been subjected to different forms of ill-treatment, which may amount to torture, at the hands of the Popular Committees in Sana'a.

59. OHCHR also learned that, on 4 February 2015, six students were detained by members of the Popular Committees for organizing peaceful sit-ins organized to call for the withdrawal of the Popular Committees from the student halls of residence in Arhab district (Sana'a Governorate). The students were then reportedly transferred to an unknown location aboard a military vehicle carrying a Houthi slogan. OHCHR has no information on their whereabouts.

C. Right to freedom of expression

60. Freedom of expression was considerably undermined and the safety of journalists dramatically deteriorated during the period under review. OHCHR documented dozens of cases of violations of the right to freedom of expression, including incidents where journalists had been subjected to threats and physical attacks. Some of the most salient incidents documented by OHCHR are described below.

61. On 18 September 2014, members of the Popular Committees stormed the State television station in Sana'a and clashed with security guards. The Minister for Information later announced that members of the Popular Committees had seized control of State-run television and of the national news agency Saba. On 22 January 2015, the Popular Committees took control of the Aden State television station and suspended broadcasts. The Popular Committees have exercised complete control over the State television broadcasts since.

62. OHCHR received credible allegations that, from 21 January to 19 February 2015, at least 17 journalists were illegally detained by members of the Popular Committees, eight of whom had been detained repeatedly in previous months. Nine of them informed OHCHR that they had been physically abused, while all but one had been reportedly threatened with a weapon.

[13] According to OHCHR sources, one of the demonstrators arrested in 2011 was released in July 2013.

63. On 3 February 2015, two journalists employed by a satellite channel were detained by members of the Popular Committees while covering events at Sana'a University. Both were reportedly transferred to the 14th police station in Sana'a and held for three days before being released without charges against them.

D. Death penalty

64. Yemen has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty. National legislation imposes the death penalty for a wide range of offences,[14] including financial crimes, blasphemy, offences committed under *Hodoud* (religiously ordained crimes) and *Qisas* (death in retribution) and drug-related offences. The Penal Law also maintains death by stoning for extramarital heterosexual and consensual adult homosexual intercourse.[15]

65. While the Penal Law prohibits the death penalty for minors, courts still hand down death sentences to minors or adults found guilty of committing crimes when they were under the age of 18 years. The practice is attributed to, among other factors, the difficulty in determining the age of offenders in the absence of birth certificates.

66. Yemen has not established a moratorium on the use of the death penalty. Despite repeated requests by OHCHR, the Attorney General did not provide figures on the number of individuals on death row or who have been executed during the period under review. The imposition of the death penalty for any but the most serious crimes, or for persons under the age of 18 years at the time of commission of the crime, is a contravention of international law. In addition, death by stoning amounts to cruel and inhuman punishment.

E. Children's rights

67. The overall situation of children in Yemen has significantly deteriorated since the intensification of the conflict, particularly since March 2015. The United Nations country task force on monitoring and reporting documented that 74 children were killed and 242 injured between 26 March and 11 June 2015.

68. Furthermore, as noted above, attacks affecting schools in the context of hostilities have endangered children's safety and restricted their right to education. OHCHR also found that there had been a significant increase in child abductions, with at least 81 documented cases of children abducted by different groups between January and March 2015, as against only two documented incidents in the last three months of 2014.

69. The United Nations Children's Fund (UNICEF) informed OHCHR that the recruitment and use of children in conflict rose sharply during the period under review. Trained monitors and United Nations staff members documented numerous cases of children manning checkpoints or being used by armed groups in the context of hostilities. In 2014, 157 cases of children allegedly being used for military purposes were documented. In the month and a half following the start of the aerial bombardments on 26 March 2015, 318 instances of children seen carrying weapons at checkpoints and elsewhere were

[14] A total of 315 offences are punishable by the death penalty under four main laws: the Penal Law (1994), the law on combating kidnapping (1998), the military Penal Code (1998) and the law on combating trafficking and the illicit use of drugs and psychotropic substances (1993). A draft law on combating human trafficking would introduce another offence punishable by death.

[15] According to international human rights jurisprudence, these crimes do not meet the threshold of "most serious crimes" and should not be punishable by death (see A/HRC/27/23, paras. 28–39).

documented. Even though appointed monitors could not always identify the group responsible for the recruitment of children, reports indicate that both government and non-State armed groups – including the Popular Committees and the tribal militias affiliated with the Islah party – are recruiting and using children as soldiers.

70. Under international law, the use and recruitment of children in armed conflict is strictly prohibited. The use of children below 15 years of age in active hostilities is a war crime.

71. OHCHR observed that, while the pattern of child marriage has been declining, it remains a common practice, affecting around 10 per cent of girls under the age of 15.[16] Early marriage, a practice that contravenes international human rights law, is perpetuated by the lack of a legislative framework that identifies the minimum age of marriage and persisting traditions. Following advocacy efforts by UNICEF and OHCHR, language was included in the draft Constitution stipulating the minimum age for marriage as 18 years.

F. Refugees, migrants, asylum seekers and internally displaced persons

72. During the period under review, large numbers of refugees, asylum seekers and migrants continued to arrive in Yemen. While a signatory to the Convention relating to the Status of Refugees, Yemen has not incorporated the Convention into national law nor has it established a procedure for determining refugee status. In the absence of such legislation, the legal status of asylum seekers and refugees has been governed by a combination of decrees and provisions. While the authorities may grant refugee status on a *prima facie* basis to Somali refugees, the Office of the United Nations High Commissioner for Refugees (UNHCR) determines refugee status for all other asylum seekers.

73. The scale and intensity of the conflict has left thousands of undocumented migrants trapped and deprived of basic resources and attention. According to UNHCR and the International Organization for Migration, more than 4,000 migrants arrived from the Horn of Africa in April 2015 alone.

74. On 20 April 2015, the Protection Cluster formed a task force on population movements to better coordinate partners' efforts in collecting and disseminating consistent and reliable data on internally displaced persons in Yemen. Since the beginning of the aerial bombardment by coalition forces on 26 March 2015, the total number of displaced persons has increased to approximately 1 million.[17] Furthermore, during the period under review, documented incidents of administrative detention of newly arrived immigrants appear to have increased. OHCHR understands that a large proportion of those detained are being held in overcrowded facilities.

75. During the period under review, hundreds of men, women and children continued to be victims of human trafficking into and from Yemen. OHCHR discovered numerous cases of displaced persons, including children, reportedly kidnapped in camps and subsequently trafficked abroad. Refugee women and children are at particular risk, and are often kidnapped for ransom. Cases of physical and sexual violence against men and boys were also reportede along the coast of the Red Sea. Smuggling and trafficking gangs have been reportedly operating with impunity in Yemen.

76. Progress was recorded in the Government's efforts to set up institutional mechanisms to counter human trafficking. Established in 2013, the National Technical

[16] UNICEF, Situation Analysis of Children in Yemen 2014.
[17] 2015 Yemen Humanitarian Needs Overview, 23 June 2015.

Committee to Counter Human Trafficking, chaired by the Minister for Human Rights, met several times during the period under review. Legislation criminalizing human trafficking was drafted by the Ministry of Justice, reviewed by the Committee, commented on by United Nations entities and submitted to the Parliament for review and enactment. At August 2015, the draft bill was still pending parliamentary endorsement.

G. Marginalized groups

77. Yemen does not recognize in its legislation the marginalized status of some minority groups, who continue to suffer from discrimination, in particular the Muhamasheen (also known as Al-Akhdam), a social group whose exact number remains unknown (according to unofficial sources, there are between 500,000 and 3.5 million Muhamasheen in Yemen). The group has no political representation at the national level and suffers from extreme levels of social stigma and discrimination, which exacerbates their socioeconomic exclusion and poverty. For centuries, they have been excluded from mainstream society, and they continue to be subjected to severe forms of descent-based discrimination. The Muhamasheen mainly reside in underdeveloped neighbourhoods in the outskirts of Sana'a, Aden, Taizz, Lahij, Al-Abyan, Al-Hudaydah and Al-Mukalla. According to a national statistical and population monitoring survey conducted in 2012, the illiteracy rate among the Muhamasheen community is around 90 per cent. Women and children are forced to beg in rural areas, and to work as entertainers at weddings or community ceremonies. The Government has also failed to adopt legislation criminalizing abuses against them, which serves to reinforce discriminatory practices. The Muhamasheen community successfully advocated for its rights during the National Dialogue Conference, particularly with regard to participation in the public sphere.[18] The Working Group on Rights and Freedoms of the Conference recommended a 10 per cent participation of persons from the Muhamasheen community in employment in public services, as well as equal access in leadership and decision-making positions. Despite the community's advocacy efforts, supported by OHCHR and other actors, this minimum participation quota was not included in the first draft Constitution.

H. Accountability and transitional justice

78. Progress in setting up accountability and transitional justice mechanisms was severely hampered by instability and violence. Throughout the period under review, governance and security continued to be affected, a situation compounded by the ongoing denial of social equity and justice, and a lack of basic services.

79. In 2014, the draft law on transitional justice and national reconciliation was further amended to bring it into line with the outcomes of the National Dialogue Conference. The final draft did not, however, include any provisions on accountability and therefore did not comply with international norms and standards. It sought rather to further strengthen immunities for high officials and to establish a mandate for a transitional justice commission. As the end of the period under review, the draft law had not been adopted.

80. Furthermore, a commission of inquiry mandated at the National Dialogue Conference to investigate allegations of human rights violations committed during the events of 2011 has still not become operational, given that its members have never been appointed by the President. In addition, the work of the Land and Dismissals Commissions

[18] See A/HRC/24/34, paras. 4-5.

in the Southern Governorates, established in January 2013 to investigate land-related violations and to provide victims with compensation, has stalled owing to a lack of funds.

81. Yemen has an obligation to investigate alleged violations of international humanitarian law and international human rights law, to bring those responsible to justice and to provide victims with an adequate and effective remedy, including reparations and the right to the truth.

I. Cooperation with the Office of the United Nations High Commissioner for Human Rights

82. Following the escalation of violence and the evacuation of international personnel from Sana'a, OHCHR was forced to interrupt a number of technical assistance activities, and to shift its focus to monitoring and documenting violations of international human rights law and international humanitarian law.

83. OHCHR established a monitoring, documentation and investigation mechanism through the deployment of monitors in conflict-affected areas. In addition, a series of training workshops on monitoring and reporting human rights violations were conducted for the benefit of members of the Protection Cluster and national non-governmental organizations. During the period under review, OHCHR human rights monitoring and documentation formed the basis of its advocacy and by other United Nations entities regarding alleged violations of international humanitarian law and international human rights law in Yemen.

84. Furthermore, OHCHR and the United Nations Development Programme (UNDP) facilitated workshops aimed at empowering civil society organizations that had been engaged in data collection relevant for the work of the Land and Dismissals Commissions.

85. OHCHR and UNDP also worked jointly to provide capacity-building to Government officials and civil society across the country in the implementation of the recommendations received by Yemen during the universal periodic review. Government sectors consequently included pertinent review recommendations in their respective operational plans. Moreover, OHCHR and UNDP supported the Government in establishing a national human rights institution. Before the hostilities spread to Sana'a in September 2014, OHCHR was working with the Government on various technical assistance projects, some of which were subsequently postponed owing to security challenges.

86. Through a joint project, OHCHR and UNDP provided support to different stakeholders in the area of the transitional justice, including by facilitating consultation workshops on the draft transitional justice law, convening representatives of the Government, the Parliament, political parties, national dialogue members, lawyers, victims' associations and tribal communities, as well as representatives of minorities and religious communities.

87. OHCHR also supported civil society organizations advocating for the endorsement of a draft law on missing persons and enforced disappearances. OHCHR delivered human rights training workshops designed to increase the knowledge and capacity of law enforcement officials, judges and prosecutors on the rights of women, marginalized groups, persons with disabilities and migrants.

88. Lastly, OHCHR and UNDP provided technical assistance to the Ministry of Human Rights with a view to developing a national human rights strategy. A document outlining the basis for the strategy was developed in consultation with civil society and relevant government bodies. The strategy describes action to be undertaken by the Government.

building upon the outcomes of the National Dialogue Conference and universal periodic review and treaty body recommendations.

IV. Conclusions and recommendations

89. **The High Commissioner is concerned about the continued escalation of violence in Yemen and the related allegations of violations of international humanitarian law, some of which may amount to war crimes, and violations and abuses of international human rights law. This situation is partly the result of failure to address past grievances and to bring perpetrators to justice.**

90. **Recalling the recommendations already made by OHCHR in previous reports on the situation of human rights in Yemen, the High Commissioner recommends that all parties to the conflict:**

(a) To comply with their obligations under international humanitarian law and international human rights law, as applicable, including by taking all feasible precautions to avoid and minimize civilian casualties;

(b) To abide by the principles of distinction, proportionality and precautions in attacks in the conduct of hostilities;

(c) To end the recruitment and use of children for military purposes, and to ensure that measures are taken to prevent such acts;

(d) To ensure immediate, safe and unimpeded access of humanitarian organizations to all areas under their control;

(e) To recall that the arms embargo pursuant to the Security Council resolution 2216 (2015) should not result in restrictions of the right to freedom of movement and trade in commercial goods, including fuel;

(f) To return to negotiations and to find solutions to end the conflict.

91. **The High Commissioner recommends that the coalition forces and the Government of Yemen ensure prompt, thorough, effective, independent and impartial investigations into alleged violations and abuses of international human rights law and alleged violations of international humanitarian law. The investigations should be conducted by independent bodies, their results should be made public, and those responsible should be brought to justice in a manner consistent with international human rights law and without resort to the death penalty.**

92. **The High Commissioner recommends that the Government of Yemen, pending the abolition of the death penalty, establish a moratorium on its application. In the meantime, Yemen should comply with its international human rights obligations, including by not imposing the death penalty, except for the most serious offences; suspending the application of the death penalty for crimes committed by persons under the age of 18; and ensuring scrupulous respect for the rights to due process and to a fair trial in death penalty cases.**

93. **The High Commissioner calls upon the international community:**

(a) To encourage the establishment of an international independent and impartial mechanism to investigate alleged violations and abuses of international human rights law and alleged violations of international humanitarian law that have resulted in loss of life and/or serious injury;

(b) To ensure the scaling-up of humanitarian assistance in Yemen by providing the urgently needed support to the Yemen humanitarian response plan;

(c) To cooperate with the panel of experts charged with investigating individuals or entities engaging in or providing support for acts that threaten the peace, security or stability of Yemen, pursuant to Security Council resolution 2140 (2014).

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Technical assistance and capacity-building

Situation of human rights and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo

Report of the United Nations High Commissioner for Human Rights

Summary

In its resolution 27/27, the Council invited the United Nations High Commissioner for Human Rights to submit a report to it at its thirtieth session. The present report on the situation of human rights and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo assesses the progress made by the Government of the Democratic Republic of the Congo in implementing the recommendations made by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations human rights mechanisms. The report covers the period from June 2014 to May 2015.

The High Commissioner commends the efforts made by the authorities to address the recommendations, which have resulted in important developments, including the establishment of the National Human Rights Commission and the implementation of the action plan of the Armed Forces of the Democratic Republic of the Congo (Forces armées de la République démocratique du Congo — FARDC) on fighting sexual violence. The High Commissioner also notes progress in the fight against impunity, particularly with the conclusion of several emblematic trials, including those of two former FARDC soldiers who were on a list of five senior army officers who had allegedly committed serious crimes. The list had been handed over to the President, Joseph Kabila, by a Security Council delegation in May 2009.

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Despite such efforts, the High Commissioner points out that the human rights situation remains of great concern throughout the country. The United Nations Joint Human Rights Office registered the highest number of human rights violations and abuses, committed by elements of over 30 armed groups as well as by FARDC soldiers, in the east. The reporting period was also marked by serious incidents that affected the protection of civilians in the east of the country.

In the western provinces, particularly in Kinshasa, the deplorable shrinking of democratic space resulted in serious violations of fundamental freedoms by security forces, mainly targeting political opponents, human rights defenders and protesters. These developments are particularly worrisome ahead of the upcoming electoral cycle.

The High Commissioner deeply regrets the October 2014 decision of the Government to expel the Director of the United Nations Joint Human Rights Office following the publication of the joint report by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and OHCHR on human rights violations committed between 15 November 2013 and 15 February 2014, by agents of the Congolese national police during Operation Likofi in Kinshasa. The High Commissioner calls upon the Government to reinforce its collaboration with the Joint Office.

The High Commissioner encourages the Government to implement all recommendations made in the present report, and reiterates the engagement of his Office to support the authorities' efforts to protect and promote human rights.

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I. Introduction

1. Prepared pursuant to Human Rights Council resolution 27/27 on technical assistance and capacity-building for human rights in the Democratic Republic of the Congo, the present report provides an overview of the situation of human rights and the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the country through the United Nations Joint Human Rights Office between June 2014 and May 2015.

2. The report highlights major human rights developments and focuses on issues relating to fundamental freedoms[1] and protection of human rights defenders, journalists and political opponents; sexual violence; extrajudicial killings and summary executions; torture and other cruel, inhuman and degrading treatment; the fight against impunity; and protection of civilians. In relation to these issues, the report assesses progress made by the Government in implementing the recommendations of OHCHR and other United Nations human rights mechanisms.

II. Main human rights developments

3. The Government made considerable efforts to advance the human rights situation during the reporting period. In particular, the appointment of the members of the National Human Rights Commission on 1 April 2015 is to be welcomed, as is the adoption, on 29 October 2014, of the action plan of the Armed Forces of the Democratic Republic of the Congo (Forces armées de la République démocratique du Congo — FARDC) on fighting sexual violence. Progress was also registered in the fight against impunity, notably with the conclusion of several emblematic trials, including those of two former FARDC officers who were on the list of five senior army officers handed over to the President, Joseph Kabila, in May 2009 by a delegation of the Security Council. These senior officers were accused of committing serious crimes, including rape and other forms of sexual violence.

4. The human rights situation remains, however, of serious concern throughout the country. The conflict-stricken provinces of the eastern Democratic Republic of the Congo, namely Orientale, North Kivu, South Kivu and North Katanga, continued to register the highest number of human rights violations and abuses, perpetrated by elements of over 30 armed groups, as well as by FARDC soldiers in the context of military operations against some of those groups. Reprisals for real or perceived collaboration of the population with other armed groups or with security and defence forces, or grievances along ethnic lines, were often motives for the attacks. If considered separately among other actors, FARDC elements have been the main perpetrators of human rights violations for most of the reporting period, with the Congolese national police overtaking them for the months of January, February and March 2015.

5. Increasing restrictions on the political space and violations of the rights to freedom of expression, association and peaceful assembly were mainly registered in the western provinces, particularly in Kinshasa. Agents of the Congolese national police and FARDC soldiers (including the Republican Guard) have used excessive force and lethal weapons to restrict those rights and freedoms during demonstrations and political rallies. The arbitrary arrest and detention, sometimes incommunicado, of demonstrators also raised due process concerns.

[1] Mainly the rights to freedom of expression, association and peaceful assembly.

6. The Government's expulsion in October 2014 of the Director of the United Nations Joint Human Rights Office following the publication of a joint report by the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and OHCHR on human rights violations committed by agents of the Congolese national police during Operation Likofi was an alarming development and the High Commissioner urged the Government to investigate continuing acts of intimidation and threats against United Nations human rights staff, and hold those responsible accountable. As the country moves towards an electoral cycle, there are serious concerns about further restrictions to political space and increased human rights violations targeting individuals critical of the Government.

A. Fundamental freedoms and protection of human rights defenders, journalists and political opponents

7. The Human Rights Committee recommended that the Government guarantee freedom of speech and of the press and other media, and ensure that any restriction on press and media activities be strictly compatible with article 19 (3) of the International Covenant on Civil and Political Rights (see CCPR/C/COD/CO/3, para. 22). During the universal periodic review of the Democratic Republic of the Congo in 2009, it was recommended that the Government develop a legal framework to protect and ensure the security of journalists, human rights defenders, members of civil society and the political opposition (see A/HRC/13/8, para. 96 (22–26)).

1. Current situation and action taken by the Government

8. During the reporting period, the Government was responsible for a high number of violations of the rights to freedom of expression, association and peaceful assembly. Moreover, there were numerous cases of excessive use of force by security forces that resulted in extrajudicial killings and other human rights violations mainly targeting political opponents, human rights defenders and media workers particularly during demonstrations. In early 2015, political opponents were targeted by security and defence forces, and several demonstrations were violently repressed, including through lethal force.

9. On 17 January 2015, the lower house of Parliament approved a law containing a controversial provision, making the holding of the 2016 presidential and legislative elections conditional upon the conduct of a national census. Many civil society actors interpreted that as an attempt to delay the elections and thereby to allow President Kabila to prolong his tenure. That led to widespread discontent, with large demonstrations organized by members of the opposition and civil society activists around the country in the first quarter of 2015.

10. On 19 January 2015, the Government deployed riot police and FARDC soldiers, including the Republican Guard, to respond to the protests, mainly in Kinshasa and Goma. Disproportionate force was used by national security forces against unarmed civilians. According to information gathered by United Nations Joint Human Rights Office, from 19 to 23 January 2015, at least 20 persons were killed and 75 injured by the police and the Republican Guard.

11. In the context of the demonstrations, over 500 individuals were arrested across the country. Several leaders of the opposition were locked up by the police in their headquarters on 20 January 2015 in Kinshasa, so that they were unable to join the demonstrations. On 21 January, in Lubumbashi, Katanga Province, the police reportedly arrested 13 members of the opposition party, Union pour la démocratie et le progrès social, at the party's local headquarters.

12. On 15 March 2015, around 30 civil society activists, including three nationals of Senegal, one of Burkina Faso, four of France and one of the United States of America, were reportedly arrested in Kinshasa by officers of the Congolese national police, the National Intelligence Agency and the military police during a workshop to encourage the participation of the youth in the democratic process in the Democratic Republic of the Congo, organized by the civil society organization Filimbi. All were accused of attempting to organize an insurrection in the country and detained on Agency premises in Kinshasa. The foreign nationals were released, some were expelled from the country, and at least two Congolese were still being detained at the time of drafting the present report. In Goma, four civil society activists of the national non-governmental organization (NGO) Lutte pour le changement were arrested, on 7 and 8 April, during a public gathering requesting the release of their colleagues arrested in Kinshasa in the context of the workshop. They were charged with instigation to disobey public authority and provisionally released on bail by the Court of Appeal in Goma on 29 April.

13. While many demonstrators were charged with looting, destruction of property and insurrection, no State agent has so far been investigated or prosecuted for the extrajudicial executions and other violations committed to control the demonstrations. This raises questions as to the independence of the judiciary when dealing with cases against political opponents and civil society actors.

14. On 20 January 2015, the Government blocked access to text messaging services, the Internet and social media for several weeks to prevent the organization of further demonstrations. Those services were re-established, respectively, on 7 and 8 February and in early March. Some radio programmes and stations were also suspended during that period. For instance, on 17 January, *Canal Kin Télévision*, which belongs to opposition leader Jean-Pierre Bemba, and *Radio Télé Catholique Elikya* were suspended for having allegedly broadcast inflammatory messages in connection with the draft electoral law. The radio branch of *Radio Télé Catholique Elikya* was reopened a few days later but its television service remains suspended. The signal of *Radio France International* was suspended on 21 January.

2. Action taken by the United Nations Joint Human Rights Office

15. The United Nations Joint Human Rights Office followed closely the situation of civil society activists and political opponents arrested in connection with demonstrations and meetings in Kinshasa and Goma. For instance, it followed the case of Christopher Mutanda Ngoy, President of the NGO Synergies for Congo and Human Rights and an active member of the Save the Congo campaign, who was arrested on 21 January 2015 in Kinshasa and held incommunicado in the facilities of the National Intelligence Agency for three weeks before being brought before a judicial official on 10 February. At the time of writing the present report, he was being held in pretrial detention at Makala prison, in Kinshasa, facing 10 criminal charges. The Joint Office also followed the case of Fred Bahuma, the leader of Lutte pour le changement, who was arrested by agents of the Congolese national police and the National Intelligence Agency on 15 March, in Kinshasa, during the workshop organized by Filimbi.

16. Among political opponents, the provincial President of the opposition party Rassemblement congolais pour la démocratie/Mouvement de libération de Kisangani, Ernest Kyaviro, was arrested on 22 January 2015 in Goma and transferred to National Intelligence Agency facilities in Kinshasa on 23 January. He was transferred to Makala central prison in Kinshasa on 20 April, after almost three months in detention, with limited access to external visitors.

17. The United Nations Joint Human Rights Office also provided legal support and targeted multifaceted protection assistance to human rights defenders, journalists and

victims and witnesses of serious human rights violations who faced risks of reprisals for testifying in trials, as well as to human rights defenders and journalists who received threats owing to their work. It thus dealt with 138 cases of threats and human rights violations against 86 human rights defenders, 16 journalists and 36 victims and witnesses of human rights violations throughout the country.

18. Despite extensive advocacy by representatives of NGOs and human rights defenders in recent years, no significant progress has been made towards the adoption of the bill on the protection of human rights defenders. On 1 November 2013, with the support of the United Nations Joint Human Rights Office, human rights organizations, parliamentarians and representatives of the Ministry of Justice and Human Rights held a technical workshop, during which participants agreed to changes in the draft legislation. However, the draft was not submitted to the National Assembly because parliamentarians argued that some of their peers would consider that it would only grant protection to human rights defenders as a specific category of people. Consequently, members of civil society have commissioned a study on the constitutionality of the draft legislation with a view to persuading parliamentarians to adopt it. The conclusions of the study were presented to the Platform of Human Rights Defenders on 27 March 2015 and to a larger group of human rights activists and partners on 17 April in Kinshasa.

B. Sexual violence

19. For many years, successive High Commissioners for Human Rights and international human rights mechanisms have urged the Government to take more effective measures to combat impunity for sexual violence. During the universal periodic review of the Democratic Republic of the Congo in 2014, it was recommended that the Government improve the implementation of national legislation on sexual violence and ensure that perpetrators are brought to justice (see A/HRC/27/5, paras. 134.60 and 134.85). The Committee on the Elimination of Discrimination against Women recommended that the Government ensure access to justice for all women affected by sexual violence during conflict by providing appropriate funding to military jurisdictions. It also recommended that the Government ensure that the justice system be responsive to gender-based violence, including by increasing the number of women judges dealing with cases of sexual violence in conflict-affected areas and of judges and prosecutors specialized in sexual violence (see CEDAW/C/COD/CO/6–7, para. 10 (c)). Other recommendations have been made to improve victims' access to comprehensive medical treatment and psychological support (ibid., para. 10 (f)).

1. Current situation and action taken by the Government

20. Sexual violence remains a major concern in the Democratic Republic of the Congo, as parties to the conflict continue to use rape as a weapon of war. During the reporting period, the United Nations Joint Human Rights Office documented 550 cases of rape throughout the country. Approximately 81 per cent of them (448 victims) were raped in the eastern provinces of North Kivu, South Kivu and Orientale. Over 44 per cent (243 victims) were allegedly raped by State agents, including members of FARDC (165 victims), the Congolese national police (72 victims), the National Intelligence Agency (2 victims) and other State actors (4 victims). Armed groups were responsible for raping approximately 56 per cent (307 victims) of the total. Among the armed groups, the main perpetrators were Mai Mai Simba/Lumumba members, who had been identified as responsible for the rape of 80 victims.

21. Survivors of sexual violence still do not have access to legal services, reparation and remedy. There are no life-saving health and psychosocial services, such as fistula surgery,

access to antiretroviral drugs and safe abortion services, particularly in conflict-affected areas where State authorities are absent or weak, and the infrastructure is insufficient or inadequate. Holistic support (legal, medical and psychosocial) can only be found in and around urban areas, where they are far from adequate or sufficient. In isolated areas where the justice system is absent or weak, practices such as amicable arrangements are frequently resorted to, whereby the victim's family agrees with the perpetrator's relatives to a financial settlement or other transactions (including marriage), in order to "close" the case.

22. Nevertheless, during the reporting period, there were landmark advances to combat conflict-related sexual violence. Military tribunals convicted 30 individuals, including 20 FARDC members, 9 Congolese national police elements and 1 member of an armed group (a combatant from the Forces démocratiques de libération du Rwanda) for sexual violence.[2] The trials of General Jérôme Kakwavu and Lieutenant Colonel Bedi Mobuli Engangela, alias "Colonel 106", took place on 7 November and 15 December 2015, respectively. Those two individuals were on a list of five senior FARDC officers accused of rape, among other crimes, which a Security Council delegation provided to President Kabila in May 2009.[3]

23. On 14 July 2014, President Kabila appointed a Presidential Adviser on Sexual Violence and the Recruitment and Use of Children, Jeanine Mabunda, to accelerate national action on the issue and engage with the international community. Ms. Mabunda has undertaken field missions all over the country to familiarize herself with the situation of victims of sexual violence and observe mobile court hearings (supported by the United Nations Joint Human Rights Office) in Kiwanja, Rutshuru and Matadi. Victims highlighted to her the hindrances they faced in seizing justice and requested measures to facilitate such a process. In December 2014 Ms. Mabunda launched a toll-free number that victims, witnesses and families can call to denounce sexual violence and request assistance. At the time of drafting the present report, 432 calls had been made using the toll-free number and 50,000 awareness text messages had been sent to the population.

24. On 28 August 2014 the Government, together with the MONUSCO Sexual Violence in Conflict Unit, the United Nations Joint Human Rights Office and the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, launched the FARDC action plan against sexual violence. FARDC was directly involved in drafting a plan for addressing sexual violence committed by FARDC members. The plan included the creation of a specialized commission and the definition of five priority activities: prevention, repression, protection, communication, monitoring and evaluation. A commission was created on 29 October 2014 by a decree of the Vice-Prime Minister in charge of national defence and former combatants. It includes representatives of MONUSCO and the United Nations Entity for Gender Equality and the Empowerment of Women. During her mission to the Democratic Republic of the Congo from 29 to 31 March 2015, the Special Representative of the Secretary-General attended the official ceremony establishing the commission, during which 19 FARDC unit commanders signed a declaration reiterating their commitment to eradicating sexual violence.

25. In September 2014, reparations were paid to 30 victims who had been raped in Songo Mboyo and Equateur Provinces in 2003. The payment of individual financial compensation to survivors was unprecedented and marked a breakthrough in the administration of justice. This case points, however, to the length of time the execution of

[2] These figures are from June 2014–January 2015.

[3] The other three officers were Colonel J. C. Mosaia (on the run), Colonel Safari Kizungu (acquitted on 21 October 2011) and Lieutenant Colonel Papy Lungu Mobambo, alias "Pitchen" (deceased in Mitwaba, Katanga Province in 2012).

an award of reparations can take. The Presidential Adviser on Sexual Violence and the Recruitment and Use of Children has indicated that clearing the backlog of reparations awards and establishing a fund for this purpose are key priorities for her office.

2. Action taken by the United Nations Joint Human Rights Office

26. The United Nations Joint Human Rights Office remained occupied with building the capacity of seven NGOs running legal clinics to improve victims' access to justice. Between June 2014 and May 2015, with the support of the Governments of Canada and the United Kingdom of Great Britain and Northern Ireland, the Joint Office supported the work of NGOs in establishing 12 legal clinics in the Provinces of North Kivu, South Kivu, Katanga, Bas-Congo, Maniema and Kinshasa. These clinics provide free legal assistance to victims of sexual violence and accompany them through the judicial process, starting with the filing of complaints.

27. Over the reporting period, at least 400 victims of sexual violence received assistance from the legal clinics, which resulted in 103 sentences being pronounced against the perpetrators. The legal clinics also established referral mechanisms to holistic services for survivors to help them receive the urgent medical, psychosocial and rehabilitation services they need. During the reporting period, the United Nations Joint Human Rights Office further provided financial and technical support to six mobile court hearings involving cases of sexual violence — three trials in North Kivu, two in Bas-Congo and one in South Kivu.[4]

28. Between April and May 2015, the United Nations Joint Human Rights Office organized training for 39 medical doctors on forensic expertise on sexual violence and for 49 judicial police officers on handling sexual violence cases, in Kinshasa, Matadi, Kalemie and Kindu. The Joint Office also contributed to the creation of five mini-libraries in prosecutors' offices[5] for the special cells aimed at eradicating sexual and gender-based violence.

29. The United Nations Joint Human Rights Office remained committed within the framework of the Task Force on Children and Armed Conflict to matters pertaining to the implementation of the action plan to stop and prevent underage recruitment, sexual violence against children and other grave child rights violations that was signed by the Prime Minister of the Democratic Republic of the Congo and the Special Representative of the Secretary-General for the country and Head of MONUSCO on 4 October 2012.

C. Extrajudicial killings and summary executions

30. The Human Rights Committee recommended that the Government investigate, prosecute and punish all acts of extrajudicial killings and summary executions, and grant appropriate reparation to the families of victims (see CCPR/C/COD/CO/3, paras. 10 and 15). The Special Rapporteur on extrajudicial, summary or arbitrary executions also recommended that the Government implement fully its "zero tolerance" policy and investigate, arrest and prosecute FARDC members responsible for such killings (see A/HRC/14/24/Add.3, para. 109).

[4] The United Nations Joint Human Rights Office supported one trial in Kiwanja, Rutshuru territory, North Kivu; two trials in Kitchanga, Masisi territory, North Kivu; one trial in Kasangulu, Bas-Congo; and the trial of Colonel 106 in Bukavu, South Kivu.

[5] In Kinshasa, Matadi, Kindu, Kalemie and Lubumbashi.

1. Current situation and action taken by the Government

31. The United Nations Joint Human Rights Office continued to document extrajudicial killings by State agents during the reporting period in areas not affected by any conflict. From June 2014 to May 2015, State agents were responsible for at least 114 cases of extrajudicial executions targeting 140 victims not affected by armed conflict. In many cases, the disproportionate use of force and of firearms by FARDC, the Republican Guard and the Congolese national police has resulted in the killing of civilians.

32. During the reporting period, extrajudicial executions and enforced disappearances were committed by agents of the Congolese national police, including during Operation Likofi, conducted in Kinshasa between 15 November 2013 and 15 February 2014 against alleged street bandits named "*kulunas*".[6] So far, only one judgement has been rendered by the Military Garrison Tribunal of N'djili, in Kinshasa, on 24 June 2014, sentencing a chief superintendent of police to 10 years in prison for abduction, arbitrary arrest and forgery. No other action seems to have been taken so far by the competent authorities to identify and prosecute all the perpetrators of the violations committed in the framework of Operation Likofi.

33. As mentioned above, at least 20 civilians were killed in the context of demonstrations in Kinshasa and Goma in early 2015. In March 2015, a mass grave containing 421 bodies was discovered in the Maluku commune, Kinshasa Province. It is alleged that those corpses might be those of people reported missing in the context of Operation Likofi[7] and after the demonstrations in Kinshasa. The Government of the Democratic Republic of the Congo has pledged to conduct a transparent and credible investigation and shed light on the mass grave.

2. Action taken by the United Nations Joint Human Rights Office

34. On 15 October 2014, MONUSCO and OHCHR published a report on human rights violations committed by the Congolese national police in the context of Operation Likofi, documenting the killing of at least nine civilians and the enforced disappearance of 32 others, based on investigations conducted by United Nations Joint Human Rights Office. The report, intended to serve as an advocacy tool, indicated in its conclusions and recommendations corrective actions the Government could take with MONUSCO support.[8] Following the release of the report, the Government declared the Director of the Joint Office persona non grata.

35. In the framework of its mandate to fight against impunity, the United Nations Joint Human Rights Office followed up on serious incidents that had taken place in Lubumbashi and Kinshasa on 30 December 2013, during which at least 70 civilians were killed, mainly by FARDC soldiers. Those killings took place in the context of defence and security force operations against followers of political opponent and religious leader Joseph Mukungubila, who was believed to be behind the attacks against strategic Government installations in Lubumbashi, Kinshasa and Kindu. In addition, over 60 civilians and alleged coup plotters were arrested by the security forces between 30 December 2013 and 2 January 2014. The Joint Office continued to advocate investigations at the local level and with the Minister of Justice and Human Rights. To date, the Joint Office has no information indicating that an

[6] See *Report of the United Nations Joint Human Rights Office on human rights violations committed by agents of the Congolese national police during Operation Likofi in Kinshasa between 15 November 2013 and 15 February 2014*, published in October 2014.

[7] See paragraph 34 below.

[8] As per standard United Nations Joint Human Rights Office practice, the report was shared with the Government for comments prior to its publication and comments were annexed to the report.

investigation has been opened into the alleged killings by the security forces, nor has it received any response to a letter it sent on 14 August 2014 to the Minister, concerning the killings.

D. Torture and other cruel, inhuman or degrading treatment or punishment

36. The Committee against Torture recommended that the Government eliminate impunity for alleged acts of torture and other cruel, inhuman and degrading treatment by carrying out prompt, impartial and exhaustive investigations into all reported cases of torture and ill-treatment. It also stressed that the perpetrators should be tried and the victims properly compensated. Furthermore, the Committee requested the Government to ensure that those who reported cases of torture and ill-treatment be protected from intimidation or reprisals for reporting such cases (see CAT/C/DRC/CO/1, para. 6). During the 2014 universal periodic review of the Democratic Republic of the Congo, the Government was urged to initiate investigations to determine responsibilities in cases of allegations of abuse and torture by security forces — especially in places of detention — and prosecute perpetrators (see A/HRC/27/5, paras. 134.49–134.50).

1. Current situation and action taken by the Government

37. During the reporting period, the United Nations Joint Human Rights Office documented 605 violations by torture and other cruel, inhuman or degrading treatment, affecting 1,191 victims throughout the Democratic Republic of the Congo. Approximately 62 per cent of the violations (377) were committed by State agents — FARDC soldiers, Congolese national police elements and National Intelligence Agency agents, while 38 per cent of those violations (228) were reportedly committed by members of armed groups.

38. Some victims were reportedly tied up and beaten by members of the security forces upon arrest, allegedly for resisting extortion, participating in political activities, failing to participate in community work, committing petty theft or failing to pay a debt. For example, on 22 March 2015, in Kalembe, Masisi territory, North Kivu, six men were allegedly arbitrarily arrested and beaten by soldiers of the 804th regiment of FARDC for refusing to participate in community work organized by FARDC to build their military camp. On 2 January, in Buyinga, Lubero territory, two children resisted extortion of their property by a FARDC soldier and were arbitrarily arrested, tied up and beaten with batons, hammers and wooden sticks by FARDC soldiers. They were stripped half-naked and left an entire night tied to poles.

39. Some victims have been subjected to cruel, inhuman or degrading punishment, which may have constituted torture by security force elements, for taking part in activities perceived to be in opposition to or critical of Government actions. On 7 April 2015, Congolese national police elements allegedly arrested four militants of Lutte pour le changement in Goma during a public rally organized to request the release of civil society activists detained by the National Intelligence Agency in Kinshasa. The four activists reported that about 10 police agents had beaten them during their detention. On 13 April 2015, they were transferred to the central prison in Goma. The United Nations Joint Human Rights Office confirmed reports alleging that they had been subjected to degrading treatment or punishment during their detention. Prison guards forced them to collect excrement with their bare hands while cleaning the toilets, and beat them when they refused to obey. They were provisionally released on bail by the Court of Appeal in Goma on 29 April.

40. Members of armed groups have also subjected civilians to mutilation and cruel treatment during attacks on villages. For example, on 20 June 2014, in Makumo, Lubero territory, North Kivu, Mai Mai Lumumba combatants reportedly mutilated the ears of two civilians and wounded another's face with a machete for their alleged complicity in the killing of their leader.

41. The Government of the Democratic Republic of the Congo promulgated a national law against torture on 9 July 2011, but its implementation has been weak. During the reporting period, military tribunals convicted at least six individuals for torture — four Congolese national police agents and two FARDC soldiers — according to the United Nations Joint Human Rights Office. The low number of convictions may partly be due to a lack of awareness of the law against torture within the judiciary. More efforts are therefore required to raise awareness about the law across the country.

2. Action taken by the United Nations Joint Human Rights Office

42. The United Nations Joint Human Rights Office continued to monitor and report on incidents of torture and other cruel, inhuman or degrading treatment or punishment throughout the country.

43. Together with the Vice-Minister for Human Rights and United Nations police officers, representatives of the United Nations Joint Human Rights Office visited places of detention in Bas-Congo and Bandundu Provinces to evaluate arrest procedures and conditions of detention, and assess their compliance with national and international human rights standards. Despite the adoption by the Democratic Republic of the Congo of the Optional Protocol to the Convention against Torture in 2010, and the sustained advocacy conducted by the Joint Office, the Government has not yet set up a national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, as required by article 3 of the Optional Protocol.

E. Fight against impunity

44. The Human Rights Committee recommended that the Government take all appropriate steps to ensure that all human rights violations brought to its attention be investigated, and that those responsible for such violations be prosecuted and punished (see CCPR/C/COD/CO/3, para. 10). During the 2014 universal periodic review of the Democratic Republic of the Congo, the Government was in particular urged to take the measures necessary to put an end to impunity in all cases of violence against women (see A/HRC/27/5, para. 134.61).

1. Current situation and action taken by the Government

45. Positive and significant developments were observed in the fight against impunity, some of which resulted from activities conducted with the support of the United Nations Joint Human Rights Office and its partners. During the period under review, according to information received by the Joint Office, at least 60 Congolese national police agents and 165 FARDC soldiers were convicted throughout the country for various human rights-related offences.

46. On 15 December 2014, in Bukavu, the Military Court of South Kivu rendered its verdict in the case of Lieutenant Colonel Bedi Mobuli Engangela, alias "Colonel 106", who was charged with crimes against humanity in connection with grave crimes committed in South Kivu between 2005 and 2007, including rape, sexual slavery and murder. The Court convicted him of crimes against humanity for murder, rape, sexual slavery, imprisonment and severe deprivation of liberty, and sentenced him to life imprisonment. The Court also

condemned him, in solidum with the State, to the payment of damages to the civil parties. On 7 November 2014, the High Military Court convicted General Jérôme Kakwavu for his individual and command responsibility for rape and war crimes, and sentenced him to 10 years of imprisonment. General Kakwavu was a former commander of the Forces armées du peuple congolais, a militia active in the district of Ituri between 2003 and 2005. Despite the length of the proceedings, the convictions of Colonel 106 and General Kakwavu represent an important step in the fight against impunity.

47. Other developments include the conviction of a former high-level commander of the Forces démocratiques de libération du Rwanda, Kizimi Lenine Sabin, for crimes against humanity. He was sentenced to life imprisonment by the Military Garrison Tribunal of Bukavu on 29 December 2014, after mobile court hearings supported by MONUSCO. On 17 November 2014, in Beni, the Military Operational Court of North Kivu rendered its judgement in the case concerning the assassination of Colonel Mamadou Ndala after a series of mobile court hearings held in Beni territory. The Court convicted five FARDC officers and six commanders of the Allied Democratic Forces-National Army for the Liberation of Uganda for the assassination.

48. In November 2014, Justin Banakoli, alias "Cobra Matata", leader of the Forces de résistance patriotiques en Ituri, indicated that he was going to surrender to FARDC, along with 812 of his combatants. However, negotiations with the Government failed as Cobra Matata insisted on a general amnesty for himself and his men, as well as integration of his forces into FARDC, with recognition of their ranks. He was arrested on several charges, including that of child recruitment, and transferred from Bunia to Kinshasa Ndolo military prison on 5 January 2015 with MONUSCO support. He is accused of desertion, forming a rebel movement, crimes against humanity, war crimes, child recruitment and attempting to escape from detention.

49. Many challenges remain in the fight against impunity and in the administration of justice. Several case files considered emblematic owing to the high number of victims or the nature of the violations and the profile of the perpetrators, remain unresolved due to lack of action by judicial authorities to hold the perpetrators accountable. OHCHR is concerned moreover about the lack of appeal for the accused, tried in first instance before the Cour militaire opérationnelle, the Supreme Court and the Military High Court, as well as the imposition of the death penalty, despite a de facto moratorium on its application since 2003.

50. On 2 June 2015, the National Assembly adopted draft legislation on the implementation of the Rome Statute of the International Criminal Court, which the Democratic Republic of the Congo ratified in 2002. A large conference organized by the Minister of Justice and Human Rights was held, from 27 April to 2 May, to assess the situation of the justice system and suggest reforms. Several important recommendations relating to the fight against impunity and witness and victim protection were adopted on that occasion.

2. Action taken by the United Nations Joint Human Rights Office

51. The sentencing of General Kakwavu and Colonel 106 marked the culmination of years of effort (seven in the case of Colonel 106) by MONUSCO and other national and international partners in the fight against impunity. The United Nations Joint Human Rights Office supported the process from the investigation, reporting and advocacy phases to the judicial investigation process and the trial. The Joint Office also worked closely with the authorities to set up a witness protection system allowing witnesses to testify without fear of reprisal and implemented protection measures for victims and witnesses throughout the pretrial and trial phases, which resulted in pretrial support being provided to 100 victims and in 80 victims testifying anonymously.

52. The United Nations Joint Human Rights Office continued to assist the judicial authorities in the fight against impunity by providing, among others, technical and logistical support to bring investigators and magistrates to sites where human rights violations had been committed. During the reporting period, the Joint Office was able to support nine joint investigation team missions,[9] conducted by judicial authorities in various parts of the country.

53. The United Nations Joint Human Rights Office assisted the judicial authorities through support to mobile court hearings, especially in the east, where the request from military justice was higher. For example, on 7 March 2015, the military garrison tribunal of Goma sitting in mobile court hearings in Kitchanga, Masisi territory, North Kivu, convicted 20 State agents for various crimes, including murder, sexual violence, armed banditry and illegal possession of weapons of war. MONUSCO supported the trial through logistic and financial support as well as in matters pertaining to the protection of victims, witnesses and plaintiffs. The Joint Office has also advocated with the Government for the abolition of the death penalty. Thus, in its work with the Government and civil society to implement a follow-up plan to the universal periodic review recommendations, it has suggested that legislation be drafted to abolish the death penalty.

54. In June and July 2014, in Goma, Bukavu, Lubumbashi, Bunia and Kisangani, the United Nations Joint Human Rights Office organized workshops for civil society organizations on reform proposals in the area of transitional justice, specifically for the reorganization of the judiciary to enable it to prosecute serious crimes under international law. Following those workshops, participants issued collective advocacy letters to their parliamentarians on the subject. In November, the Joint Office co-organized a workshop with the International Centre for Transitional Justice on strengthening the judicial framework and its ability to investigate and prosecute grave crimes in the Democratic Republic of the Congo, which analysed proposed reforms on transitional justice, including the possible establishment of specialized chambers to try international crimes.

55. The United Nations Joint Human Rights Office supported the transfer of 29 high-risk inmates, including Colonel 106, to more secure facilities to address persistent security concerns in prison. Indeed, 1,510 detainees escaped from prisons during the period under review. Systematic and mass escapes from prison represent a serious setback to the fight against impunity. The dilapidated prison infrastructure in some cases, combined with negligence, and sometimes corruption of prison guards, explain many of the escapes.

F. Protection of civilians

56. The Human Rights Committee recommended that the Government of the Democratic Republic of the Congo take all the steps necessary to strengthen its capacity to protect civilians, especially women and children, in zones of armed conflict. It advised that relevant guidelines be made available to all members of the armed forces and that human rights training be made compulsory for them (see CCPR/C/COD/CO/3, para. 13). During the 2014 universal periodic review, the Government was urged to take the measures necessary to protect civilians in any situation of armed violence (see A/HRC/27/5, para. 134.163).

[9] To South Kivu, Maniema, Equateur and Orientale Provinces.

1. Current situation and action taken by the Government

57. In eastern Democratic Republic of the Congo, civilians remain vulnerable to the continued armed conflict between the Congolese army and various armed groups. The United Nations Joint Human Rights Office continued to document the killing and injuring of civilians, as well as rapes, abductions and looting by armed groups and State agents in the context of operations against such groups.

58. During the reporting period, military operations to neutralize armed groups, including Operation Sukola I against the Allied Democratic Forces and Operation Sukola II against the Forces démocratiques de libération du Rwanda and the Forces de résistance patriotique en Ituri, seem to have resulted in the radicalization of these groups. All those combatants targeted civilians in retaliation for the victims' real or perceived support to FARDC in military operations against them.

59. On the night of 6 June 2014, 31 civilians were killed by members of a Barundi and Banyamulenge militia group in Mutarule, Uvira territory, South Kivu, in an outdoor church service. The FARDC commander stationed nearby had reportedly been repeatedly warned and informed of the attack by the local population, but failed to prevent or stop the killings. From 1 October to 31 December 2014, a series of attacks in several localities of Beni territory resulted in the killing of at least 237 civilians by combatants of the Allied Democratic Forces. At the request of the Government, the United Nations Joint Human Rights Office has granted support to the national investigation into the killings.

60. In the context of the drawdown of MONUSCO, it is especially important that State security forces take the lead in the protection of civilians. To this effect, FARDC and the MONUSCO force regularly undertake day and night joint patrols in volatile areas. Officers of the United Nations police also cohabit with Congolese national police agents in provincial offices of eastern Congo. Provincial officials participate alongside MONUSCO and other protection stakeholders in the provincial Senior Management Group on Protection.

2. Action taken by the United Nations Joint Human Rights Office

61. The protection of civilians remains the core priority for MONUSCO and the United Nations Joint Human Rights Office. Besides various protection mechanisms, in an effort to be proactive rather than reactive in protecting civilians, the Joint Office spearheaded the establishment of an early warning alert and response cell, with corresponding provincial and local entities. MONUSCO also stepped up efforts to protect civilians through increased interaction with the local population and advocacy efforts with local and national authorities. It conducted awareness-raising activities on the early warning networks in areas that could be affected by military operations against the Forces démocratiques de libération du Rwanda and worked with some 90 communities in North Kivu to improve local early warning systems. Furthermore, through routine inductions for newly deployed United Nations police and MONUSCO, the Joint Office has sought to maintain the focus on protection in eastern Democratic Republic of the Congo.

62. Protection of civilians in the context of the series of attacks by the Allied Democratic Forces in Beni territory, North Kivu, mainly during the period October-December 2014, presented some challenges.[10] However, in view of FARDC unilateral

[10] See *Report of the United Nations Joint Human Rights Office on international humanitarian law violations committed by Allied Democratic Forces (ADF) combatants in the territory of Beni, North Kivu province, between 1 October and 31 December 2014*, jointly published by OHCHR and MONUSCO in May 2015.

operations against the Forces démocratiques de libération du Rwanda. MONUSCO has heightened its alert networks in Sukola II areas of operation, namely North Kivu and South Kivu, to ensure that information and alerts on threats to civilians are properly channelled and addressed by the MONUSCO force and Congolese authorities. In the light of imminent heightened operations against the Forces de résistance patriotique en Ituri, the United Nations Joint Human Rights Office has been engaging MONUSCO in a joint planning exercise to ascertain whether the plan incorporates appropriate protection concerns.

3. Human rights due diligence policy and the role of the United Nations Joint Human Rights Office

63. In compliance with the human rights due diligence policy on United Nations support to non-United Nations security forces, the United Nations Joint Human Rights Office continued to screen FARDC battalion commanders and Congolese national police agents for past human rights violations as a condition for any support provided by MONUSCO or the United Nations country team. During the reporting period, the Joint Office conducted 1,805 screenings for the provision of recommendations to MONUSCO leadership prior to the provision of Mission support to security forces. While this number comprises personnel who have been screened more than once, 906 distinct individuals have been screened. More than 85 per cent of the screened officers are FARDC while the remaining officers belong to the police. Information collected by the Joint Office through monitoring and investigation functions remained critical for the Mission's ability to support joint operations.

64. In January 2015, on the eve of the launch of the planned FARDC-MONUSCO joint operation against the Forces démocratiques de libération du Rwanda in North Kivu, the appointment of two FARDC generals as commanders to key positions within the operation led MONUSCO to withdraw its support. This was due to records of gross human rights violations for which the commanders allegedly bore direct and command responsibility, as well as with a view to preventing human rights violations in the context of operations supported by MONUSCO. None of the FARDC units falling under their command received MONUSCO support. The Government then decided that Sukola II would be a unilateral operation. Those developments highlighted the need for improved communication between MONUSCO and the Government on the human rights due diligence policy.

III. Cooperation with United Nations human rights mechanisms and national mechanisms to promote and protect human rights

A. Action to implement universal periodic review recommendations

65. The United Nations Joint Human Rights Office has been working closely with the Government and civil society to support implementation of universal periodic review recommendations made to the Democratic Republic of the Congo in May 2014. On 23 and 24 December 2014, the Ministry of Justice and Human Rights met with various stakeholders to adopt an implementation plan for review recommendations. The Prime Minister is to submit the plan to all ministries concerned to start the implementation.

66. In November and December 2014, the United Nations Joint Human Rights Office and the Ministry of Justice and Human Rights organized training workshops in the provincial capitals of South Kivu, Orientale, North Kivu and Katanga on the universal periodic review process and its final recommendations, including the role of each stakeholder in their implementation. Participants included the *entités de liaison*, provincial government officials, and representatives of FARDC, the Congolese national police, the

National Intelligence Agency and leaders of civil society. Thirty-three participants were trained in Goma, 37 in Bukavu, 38 in Kisangani and 29 in Lubumbashi. The Joint Office also conducted awareness-raising meetings on the subject for 428 beneficiaries in Kindu, Kalemie, Matadi, Bandundu, Kinshasa, Butembo, Mbuji-Mayi, Uvira, Dungu and Bunia.

B. Update on national mechanisms for the protection and promotion of human rights

1. National Human Rights Commission

67. Members of the National Human Rights Commission were appointed by Parliament on 1 April 2015 and confirmed by presidential decree — over two years after the enabling legislation was promulgated (March 2013). The United Nations Joint Human Rights Office had previously engaged with the human rights NGOs' coordination committee and the President of the Parliamentarians' Network for Human Rights, and advocated a consensual approach in nominating qualified candidates according to the Organic law and the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). On 24 April 2015, the Commission adopted its internal rules and regulations, which were submitted to the Constitutional Court for review on 30 April. The Joint Office provided technical assistance to the subcommittee tasked with drafting the rules.

68. One of the 11 candidates to the National Human Rights Commission, who was not appointed, challenged the designation procedure before the Constitutional Court on 6 April 2015, arguing that the process violated several provisions of the Constitution and of the internal rules of the National Assembly. At the time of drafting, the Constitutional Court had not yet answered this claim of unconstitutionality.

2. *Entités de liaison*

69. No significant progress has been observed during the reporting period to ensure that the *entités de liaison* are operational and effective since their establishment by decree No. 09/35 of 12 August 2009 and their official launch on 17 April 2010. Despite continued efforts by the United Nations Joint Human Rights Office to advocate that the authorities make these entities fully operational at the national and provincial levels, they remain inactive. Some provincial governors complained of not having funds to implement the mechanism, while other stakeholders considered that the situation was due to lack of political will.

IV. Conclusion and recommendations

A. Conclusion

70. **During the period under review, the human rights situation in eastern Democratic Republic of the Congo continued to be affected by conflict and violations committed by armed groups and FARDC in the context of military operations against those groups. In the western part of the country, the human rights situation was affected by political factors, with restrictions to the political space and violations of the rights to freedom of expression, association and peaceful assembly.** The **intervention of State agents in the repression of political opponents and other civil society actors, including excessive use of force against demonstrators, arbitrary arrests and incommunicado detention, without judicial oversight, are of serious concern, particularly in the lead-up to the upcoming electoral cycle.**

71. **The conclusion of several emblematic trials, including of FARDC officers, was a welcome step forward in the fight against impunity. However, structural problems in the justice system, particularly its lack of independence when dealing with cases against political opponents and civil society actors, remain of great concern and have resulted in the still low prosecution rate of human rights violations.**

72. **The High Commissioner deplores the expulsion of the former Director of the United Nations Joint Human Rights Office from the Democratic Republic of the Congo in October 2014 following the publication of the report on Operation Likofi.[11] He notes with concern that the Government had decided, in January 2015, to carry out the Sukola II operation unilaterally led by two FARDC generals suspected of having committed gross human rights violations.**

B. Recommendations

73. **The High Commissioner recommends that the Government of the Democratic Republic of the Congo:**

(a) Establish judicial and non-judicial mechanisms to fight against impunity for serious past and ongoing human rights violations, committed across the country, including through the adoption of the law on the specialized chambers;

(b) Take all the legislative measures necessary to ensure that all those convicted of crimes can appeal against their convictions and sentences to a higher court;

(c) Ensure that the fundamental freedoms of all people in the Democratic Republic of the Congo are respected in the run-up to the upcoming elections;

(d) Ensure that the National Human Rights Commission is fully operational, including through the allocation of appropriate financial and logistical capacity, and that it works in line with the Paris Principles;

(e) Take all the measures necessary to ensure that the defence and security forces of the Democratic Republic of the Congo fully respect international human rights and humanitarian law, including by reinforcing oversight and accountability mechanisms;

(f) Work towards the full implementation of the FARDC action plan to stop and prevent underage recruitment, sexual violence against children and other grave child rights violations in the Democratic Republic of the Congo, and ensure that perpetrators are systematically brought to justice, and that victims receive timely and appropriate reparation;

(g) In accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and with the assistance of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, create a national mechanism for the prevention of torture independent of the Government;

(h) Establish and empower national institutions and mechanisms for the coordination and implementation of recommendations of the United Nations human rights mechanisms;

[11] The High Commissioner issued a press release on 19 October 2014 to condemn the expulsion of the Director of the United Nations Joint Human Rights Office.

(i) Reinforce its collaboration with the United Nations Joint Human Rights Office, MONUSCO and other partners to ensure better protection of human rights in the country.

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Technical assistance and capacity-building

Situation of human rights and the activities of the United Nations Joint Human Rights Office in the Democratic Republic of the Congo

Report of the United Nations High Commissioner for Human Rights

Corrigendum

1. Paragraph 23

For the existing text, *substitute*

23. On 8 July 2014, President Kabila appointed a Personal Adviser on Sexual Violence and the Recruitment and Use of Children, Jeanine Mabunda, to accelerate national action on the issue and engage with the international community. Ms. Mabunda has undertaken field missions all over the country. She attended mobile court hearings supported by the United Nations Joint Human Rights Office in Kasangulu, Bas-Congo, and in Kiwanja, North Kivu. Victims highlighted to her the hindrances they faced in seizing justice and requested measures to facilitate such a process. In November 2014 Ms. Mabunda launched a toll-free number that victims, witnesses and families can call to denounce sexual violence and request assistance. At the time of drafting the present report, 432 calls had been made using the toll-free number and 50,000 awareness text messages had been sent to the population.

2. Paragraph 65

For the existing text, *substitute*

65. The United Nations Joint Human Rights Office has been working closely with the Government and civil society to support the implementation of universal periodic review recommendations made to the Democratic Republic of the Congo on 29 April 2014 and reflected in the report of the Working Group on the Universal Periodic Review on the Democratic Republic of the Congo adopted in May 2014 (A/HRC/27/5). On 23 and 24 December 2014, the Minister of Justice and Human Rights met with various stakeholders to

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adopt an implementation plan for review recommendations. The Prime Minister is to submit the plan to all ministries concerned to start its implementation.